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Arizona Corporation Commission
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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A.MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

IN THE MATTER OF U. S. WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH SECTION 271 OF THE TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-00000A-97-0238

DECISION NO. 64600

ORDER

Open Meeting
February 27, 2002
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. The Federal Telecommunications Act of 1996 ("1996 Act") added Section 271 to the Communications Act of 1934. The purpose of Section 271 is to specify the conditions that must be met in order for the Federal Communications Commission ("FCC") to allow a Bell Operating Company ("BOC"), such as Qwest Corporation ("Qwest" or the "Company"), formerly known as US WEST Communications, Inc. ("US WEST")[1] to provide in-region interLATA services. The conditions described in Section 271 are intended to determine the extent to which local phone service is open to competition.

2. Section 271 (c)(2)(B) sets forth a fourteen point competitive checklist which specifies the access and interconnection a BOC must provide to other telecommunications carriers in order to satisfy the requirements of Section 271. Section 271 (d)(2)(B) requires the FCC to consult with state commissions with respect to the BOC's compliance with the competitive checklist. Also, Subsection (d)(2)(A) requires the FCC to consult with the United States Department of Justice.

3. Section 271(c)(2) imposes upon an incumbent Local Exchange Carrier ("ILEC") "the

[1] For purposes of this Order, all references to US WEST have been changed to Qwest.

duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network . . . for the transmission and routing of telephone exchange service and exchange access."

4. Pursuant to Section 251(c)(2), such interconnection must be (1) provided "at any technically feasible point within the carrier's network;" (2) "at least equal in quality to that provided by the local exchange carrier itself or . . . [to] any other party to which the carrier provides interconnection;" and (3) provided on rates, terms, and conditions that are "just, reasonable, and nondiscriminatory, in accordance with the terms and conditions or the agreement and the requirements of [section 251] . . . and section 252.

5. Section 251(c)(6) requires ILECs to provide physical collocation of equipment necessary for interconnection unless the ILEC can demonstrate that physical collocation is not practical for technical reasons or because of space limitations. In that event, the ILEC is still obligated to provide virtual collocation of interconnection equipment.

6. Section 252(d)(1) states that "[d]eterminations by a State Commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of [section 251(c)(2)] . . . (A) shall be (i) based on cost . . . of providing the interconnection . . . and (ii) nondiscriminatory, and (B) may include a reasonable profit."

7. In Decision No. 60218 (May 27, 1997) the Commission established a process by which Qwest would submit information to the Commission for review and a recommendation to the FCC whether Qwest meets the requirements of Section 271 of the 1996 Act.

8. On February 8, 1999, Qwest filed a Notice of Intent to File with the FCC and Application for Verification of Section 271(c) Compliance ("Application"), and a Motion for Immediate Implementation of Procedural Order. On February 16, 1999, AT&T Communications of the Mountain States, Inc. ("AT&T"), GST Telecom, Inc. ("GST"), Sprint Communications Company, L.P. ("Sprint"), Electric Lightwave, Inc. ("ELI"), MCI WorldCom, Inc., on behalf of its regulated subsidiaries ("MCIW"), and e-spire Communications, Inc. ("e-spire") filed a Motion to Reject Qwest's Application and Response to Qwest's Motion.

9. On March 2, 1999, Qwest's Application was determined to be insufficient and not in

compliance with Decision No. 60218. The Application was held in abeyance pending supplementation with the Company's Direct Testimony, which was ordered pursuant to Decision No. 60218 and the June 16, 1998 Procedural Order. On March 25, 1999, Qwest filed its supplementation.

10. By Procedural Order dated October 1, 1999, the Commission bifurcated Operational Support System ("OSS") related Checklist Elements from non-OSS related elements.

11. In its December 8, 1999 Procedural Order, the Commission instituted a collaborative workshop process to evaluate the non-OSS Checklist Items. The December 8, 1999 Procedural Order directs Commission Staff to file draft proposed findings of fact and conclusions of law for review by the parties within 20 days of each Checklist Item being addressed. Within ten days after Staff files its draft findings, the parties are to file any proposed additional or revised findings and conclusions. Staff has an additional ten days to issue its Final Recommended Report.

12. For "undisputed" Checklist Items, Staff submits its Report directly to the Commission for consideration at an Open Meeting. For "disputed" Checklist Items, Staff submits its Report to the Hearing Division, with a procedural recommendation for resolving the dispute.

13. On August 16, 2000, the first Workshop on Checklist Item No. 1 (Interconnection/Collocation), No. 11 (Location Routing Number) and No. 14 (Resale) took place at Hewlett-Packard's facilities in Phoenix. Parties appearing at the Workshop included Qwest, AT&T, Sprint, ELI, MCIW, Rhythms Links and the Residential Utility Consumers Office ("RUCO"). Qwest relied on its original testimony filed in March 1999, and its Summary Brief filed on June 30, 2000. AT&T, MCIW, Rhythms and ELI filed Additional Comments on August 3, 2000. Qwest filed Rebuttal Comments on August 10, 2000.

14. On February 13, 2001, another Workshop convened to resolve outstanding issues regarding Checklist Item No. 1.

15. The parties were able to resolve many issues at the two workshops, but were unable to come to agreement on a number of issues concerning Checklist Item No. 1. Qwest, AT&T, MCIW, and Sprint filed Statements of Positions on impasse issues on March 28, 2001.

16. Pursuant to the June 12, 2000, Procedural Order, on August 14, 2001, Staff filed its Proposed Findings of Fact and Conclusions of Law for Checklist Item No. 1 Interconnection and

Collocation ("Proposed Report").

17. Qwest and MCIW filed Comments on Staff's Proposed Findings on August 27, 2001. AT&T filed Comments on Staff's Proposed Findings on August 28, 2001.

18. On October 15, 2001, Staff filed its Final Report on Qwest's Compliance with Checklist Item No. 1 Interconnection and Collocation ("Final Report"). A copy of Staff's Final Report is attached hereto as Exhibit A and incorporated herein by reference.[2]

19. On October 22, 2001, Qwest and MCIW, separately, filed Comments Regarding Staff's Final Report.

20. On October 31, 2001, AT&T filed a Response in Opposition to Qwest's Comments Regarding Staff's Final Recommended Decision.

21. On November 1, 2001, Qwest filed a Partial Withdrawal of Comments.

22. On November 2, 2001, Qwest filed its Reply to AT&T's Opposition.

23. On December 6, 2001, Staff filed a Response to Qwest's Comments and revised the Final Report to clarify its position on collocation issue no 4.

24. The Final Report identifies 15 Interconnection impasse issues and eight collocation impasse issues.

25. We find that the existing record is sufficiently developed to resolve the disputed issues relating to Checklist Item No. 1 without a hearing.

INTERCONNECTION IMPASSE ISSUES

26. The first interconnection impasse issue is whether Qwest should indemnify CLECs against poor service quality.

27. AT&T states that it frequently encounters Qwest-caused delays when ordering interconnection trunks from Qwest. To provide incentives for Qwest to provide timely performance, AT&T requests that the Commission approve the following indemnity provision to be added to SGAT Section 7.1.1.1.2:

> 7.1.1.1 Qwest will provide to CLEC interconnection at least equal in

[2] The attached Final Report includes Staff's revisions of December 6, 2001.

> quality to that provided to itself, to any subsidiary, affiliate, or any other party to which it provides interconnection. Notwithstanding specific language in other sections of this SGAT, all provisions of this SGAT regarding interconnection are subject to this requirement. In addition, Qwest shall comply with all state wholesale and retail service quality requirements.
>
> 7.1.1.1.2 In the event that Qwest fails to meet the requirements of Section 7.1.1.1, Qwest shall release, indemnify, defend and hold harmless CLEC and each of its officers, directors, employees and agents (each an "Indemnitee") from and against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated including, but not limited to, costs and attorneys' fees.
>
> Qwest shall indemnify and hold harmless CLEC against any and all claims, losses, damages or other liability that arises from Qwest's failure to comply with state retail or wholesale service quality standards in the provision of interconnection services.

28. Qwest argues that AT&T's request for additional indemnification is unfounded, as SGAT Section 5.9 already contains significant indemnification commitments. Qwest submits that the resolution of this issue should be deferred to the workshops on the Performance Assurance Plan or General Terms and Conditions.

29. In connection with its Final Report on checklist Item No. 14 (Resale), Staff recommended that Qwest's proposed indemnification language should be reviewed in the General Terms and Conditions Workshop.

30. The issues raised in Qwest's proposed indemnity language in connection with Resale are different than those AT&T raises here. However, we believe that our finding in Decision No. 64060 (October 3, 2001) to defer consideration of indemnity proposals to the Workshop on General Terms and Conditions remains the best course of action. Consequently, we decline to adopt AT&T's proposed indemnification language at this time, however, our deferral should not infer that we reject it. We reserve the right to reconsider it either when we address the Performance Assurance Plan or General Terms and Conditions.

31. The second disputed issue is whether Qwest is deconstructing interconnection trunks into "entrance facilities" such that it wrongfully dictates where CLECs must interconnect and access UNEs.

32. Qwest's SGAT Section 7.1.2.1 provides:

> Entrance Facilities. Interconnection may be accomplished through the provision of a DS1 or DS3 entrance facility. An entrance facility extends from the Qwest Serving Wire Center to CLEC's switch location or POI. Entrance facilities may not extend beyond the area served by the Qwest Serving Wire Center. The rates for entrance facilities are provided in Exhibit A. Qwest's Private Line Transport service is available as an alternative to entrance facilities, when CLEC uses such Private Line Transport service for multiple services. Entrance Facilities may not be used for interconnection with unbundled network elements.

33. AT&T is concerned that Qwest is attempting to deny CLECs the right to determine their points of interconnection in the Qwest network. Qwest redefines interconnection trunks as newly described "entrance facilities, [which] are high speed digital loops." AT&T states that for some time now and in conformance with the 1996 Act, CLECs have designated their chosen points of interconnection, and paid for interconnection trunks that run from their point of presence ("POP") to the designated point of interconnection ("POI") in the Qwest network. AT&T believes that Qwest's proposed SGAT removes that option through its definition of interconnection via loop-type "entrance facilities." AT&T argues that dedicated trunks are a technically feasible means of obtaining interconnection or access to UNEs and Qwest should not be allowed to dismantle interconnection trunks into loops and transport thus limiting the POI.

34. AT&T also argues that Qwest is attempting to prohibit the use of interconnection trunks for access to UNEs. Qwest's SGAT prohibits "entrance facilities to be used for interconnection with unbundled network elements." AT&T claims this increases the cost and decreases efficiency for CLECs. AT&T argues that consistent with the law, CLECs must have access to UNEs by any technically feasible means, including interconnection trunks. AT&T proposes the following language for SGAT Section 7.1.2.1:

> Leased Facilities. Interconnection may be accomplished through the provision of DS1 or DS3 dedicated transport facilities. Such transport extends from the Qwest switch to the CLEC's switch location or the CLEC's POI of choice.

35. Sprint claims that Qwest's SGAT undermines the CLECs' ability to enter the Arizona market by forcing interconnecting carriers to interconnect at more than one POI per LATA.

36. Qwest has agreed to adopt the resolution approved by the Washington Utilities and Transportation Commission allowing access to UNEs. The Washington Order states that Qwest must provide interconnection through entrance facilities at a POI determined by the CLEC, including for the purpose of access to UNEs.

37. Staff agrees with Qwest's position to adopt the Washington Commission's Order and that Qwest should revise SGAT Section 7.1.2 to reflect this commitment.

38. Qwest's agreement to modify SGAT Section 7.1.2 appears to address the CLECs' concerns and should be approved.

39. The third interconnection impasse issue is whether Qwest's Expanded Interconnection Channel Termination ("EICT") charges for interconnection at the CLEC collocation POI violate the 1996 Act.

40. SGAT Section 7.1.2.2 provides:

> Collocation. Interconnection may be accomplished through the Collocation arrangements offered by Qwest. The terms and conditions under which Collocation will be available are described in Section 8 of this agreement. When interconnection is provided through the Collocation provision of Section 8 of this Agreement, the Interconnection Tie Pair (ITP) Expanded Interconnection Channel Termination rate elements, as described in Section 9 will apply in accordance with Exhibit A. The rates are defined at a DS0, DS1 and DS3 level.

41. AT&T argues that Qwest's position is contrary to the law and Qwest should have to pay for interconnection on its side of the POI. AT&T proposed deleting the last two sentences of Section 7.1.2.2.

42. Qwest states that it is prepared to accept the recommendation in the Washington Commission's Draft Order which provides a "bill and keep" arrangement, which is consistent with AT&T's proposal.

43. Staff agrees that the Washington Commission's resolution of this issue is consistent with the law and many of this Commission's previously approved interconnection agreements with Qwest.

44. Qwest has revised its SGAT to conform with Staff's recommendation. The modification addresses AT&T's concerns and resolves this issue.

45. The fourth interconnection impasse issue is whether mid-span arrangements to access

UNEs should be allowed.

46. AT&T and MCIW argue that the language in SGAT Section 7.1.2.3 prohibits the use of mid-span meet arrangements to access unbundled network elements and should be revised to allow CLECs to make the most efficient use of the mid-span meet. AT&T asserts that the FCC has not prohibited mid-span arrangements or interconnection trunks for access to unbundled elements, but has stated that when a meet point arrangement is used for access to UNEs the CLEC should bear 100 percent of the economic costs associated with that use.

47. MCIW further asserts that Section 7.1.2.3 should be broadened to encompass all technically feasible types of meet point arrangements. MCIW proposed language that specifies four basic fiber meet design options to be added to Qwest's SGAT. MCIW alleges that Qwest has failed to agree to enter into technically feasible mid-span arrangements under interconnection agreements that contain only broad technical feasibility language.

48. Qwest states that it will accept the resolution contained in the Washington Commission's Draft Order.

49. The Washington Commission's Order requires Qwest to eliminate the SGAT prohibition against using mid-span arrangements to access UNEs, but does not preclude Qwest charging CLECs for the portion of the mid-span meet that is used for UNEs.

50. Staff recommends in general that the Commission adopt the same resolution as adopted in the Washington Commission's Order. Staff notes that the Washington Commission's Order states "Our decision that Qwest need not include WorldCom's proposed interconnection methods in the SGAT should not be construed to mean that we reject those methods. In order to meet the requirements of Checklist Item 1, Qwest must demonstrate that it makes interconnection available at any technically feasible point, using any technically feasible method, including those proposed by WorldCom or other carriers if they are found to be technically feasible." In contrast to the Washington Commission, Staff believes there is no reason for Qwest not to set out the specific interconnection methods as MCIW requests, and recommends that Qwest revise its SGAT to include MCIW's proposed language.

51. We agree with Staff's conclusion. Qwest has not argued that MCIW's proposed

options are not feasible. We believe MCIW's proposed language may prevent future disputes. Importantly, MCIW's proposal does not preclude additional technically feasible options. Qwest should revise its SGAT to include MCIW's proposed language for Section 7.1.2.3.4.

52. The fifth interconnection impasse issue is whether CLECs can choose the most efficient means of interconnection such as the use of Single Point of Presence ("SPOPs").

53. The CLECs argue that Qwest's SPOP product designed to a single point of interconnection per LATA, unlawfully restricts the CLECs' ability to interconnect at any technically feasible point in Qwest's network. The SPOP product dictates to the CLEC that its POI will be its POP and not at Qwest's wire center. Furthermore, the CLECs argue, the SPOP impedes interconnection at the access tandem, among other places, to cases where a local tandem is not available to get to an end office. AT&T requests that Qwest recast its SPOP product offering and its SGAT to eliminate restrictions on the CLECs' ability to designate the point or points of interconnection they deem most efficient.

54. MCIW states that the CLECs have experienced difficulties with Qwest employing the SPOP product to the exclusion of all else, including interconnection agreements that otherwise permit the type of interconnection the SPOP product disallows.

55. Staff believes that this issue was resolved in connection with Checklist Item 13 (Decision No. 63977, dated August 30, 2001) where Qwest agreed to allow CLECs the most efficient means of interconnection, including a single point of interconnection per LATA.

56. In its Comments to the Proposed Findings, AT&T states that the dispute relates to Qwest's implementation of the single point per LATA requirement and remains in dispute. AT&T argues that the SPOP product does not comply with the law, and that Qwest impermissibly demands that if the CLEC wants a single POI per LATA, the CLEC must surrender its right to choose its POI. The SPOP product provides: "For the purposes of this product, point of interconnect (POI) is defined as the wholesale customer's physical presence, and not the Qwest serving wire center (SWC) as has traditionally been the case with interconnecting carriers." AT&T argues that Qwest must bring its product and policy offerings into compliance with the law and its SGAT.

57. Staff believes that the parties have agreed that to the extent the SGAT conflicts with a

Qwest product or policy statement, the SGAT or the parties' interconnection agreement will prevail. Thus, according to Staff, if the SGAT requires a single point of interconnection per LATA without restriction, and a product or policy offering purports to impose restrictions in addition to those contained in the SGAT, the SGAT language prevails.

58. Qwest did not file comments concerning this dispute. AT&T's concern is with Qwest's implementation of the single point of interconnection per LATA. AT&T alleges the SPOP product offering is not in compliance with the law, or even Qwest's SGAT. Qwest revised SGAT Section 7.0 to allow CLECs the most efficient means of interconnection, including a single point of interconnection per LATA. We agree with Staff that if Qwest's product offering conflicts with the SGAT, and the SGAT is lawful and reasonable, the SGAT should prevail. We also believe, however, that Qwest should make product offerings in conformance with its SGAT and should revise the SPOP offering accordingly. If Qwest is requiring CLECs to agree to product offerings that are more restrictive than its SGAT, the CLECs should bring an enforcement action before this Commission.[3] In its exceptions to the Recommended Order filed December 17, 2001, Qwest states it has removed the restrictive definition of POI from its SPOP and affirms that it permits a CLEC to establish a POI at any Technically Feasible POI chosen by CLEC. Qwest's revisions to its SGAT and SPOP appear to resolve this issue without further action by the Commission at this time.

59. The sixth interconnection impasse issue is whether Qwest's attempts to control the establishment of one and two way trunk groups violates Section 271 of the 1996 Act.

60. SGAT Section 7.2.2.1.2.1 provides:

> One-way or two-way trunk groups may be established. However, if either Party elects to provision its own one-way trunks for the delivery of Exchange Service (EAS/Local) traffic to be terminated on the other Party's network, the other Party must also provision its own one-way trunks.

61. AT&T argues that under the permissive scheme in Section 7.2.2.1.2.1, when AT&T seeks to install one-way trunking to a particular tandem switch in Qwest's network, Qwest will insist

[3] This issue is similar to the third collocation impasse issue. In that case we adopt Staff's recommendation that issues concerning new product offerings that conflict with the SGAT should be addressed in the General Terms and Conditions Workshop.

on installing the corresponding one-way trunking from every end-office to the AT&T switch causing the unnecessary and inefficient use and exhaustion of AT&T's switch terminations as well as one-way trunks. This conduct, AT&T asserts, undermines the CLEC's right to select points of interconnection and to employ either one-way or two-way trunking. AT&T proposes the following sentence be added to the end of Section 7.2.2.1.2.1: "The point or points of interconnection for such one-way trunk groups shall be those designated by the CLEC." AT&T believes its proposal will ensure that new entrants may select the most efficient points at which to exchange traffic, thus lowering the cost of transport and termination.

62. Sprint argues that Qwest's SGAT denies CLECs the ability to utilize efficient unused capacity on existing long distance networks to carry local/EAS traffic, and seeks to force CLECs to build inefficient "overlay" local networks that mirror old ILEC networks.

63. Qwest states that it offers CLECs the opportunity to utilize either one-way or two-way trunks to carry traffic. When one party elects to use one-way trunks to terminate traffic on the other's network, the other party must also provision a one-way trunk. Qwest argues that if a CLEC may choose its own POI for its one-way trunks, Qwest should be entitled to do the same, and if Qwest must provision one-way trunks for its own traffic and pay for those trunks, it should be permitted to determine the most cost-effective and efficient means to provide for that trunk. Qwest believes AT&T's demands go beyond the bounds of reason and fairness.

64. Staff believes that Qwest should have the ability to make decisions concerning interconnection points and routing for one-way trunks that they have to build because CLECs have chosen to interconnect through one-way trunks. Staff states that should one-way trunking from Qwest cause inefficient use of the CLEC network, CLECs should consider it in exercising their unilateral right about where and how to interconnect with Qwest's POIs. Staff believes that AT&T's concern over the use of one-way trunking in a retaliatory manner is a legitimate one and should be dealt with in the General Terms and Conditions workshops where relief from retaliatory action in general should be addressed.

65. We believe Staff's recommended resolution of this issue is fair and reasonable and should be adopted. We expect Staff to address issues of retaliatory actions in its Report on General

Terms and Conditions.

66. The seventh interconnection impasse issue is whether Qwest's 50-mile limitation on direct trunk transport violates the CLECs' right to choose the most efficient point of interconnection.

67. AT&T objected to SGAT Section 7.2.2.1.5 which provided:

> Qwest will provide Direct Trunked Transport LATA-wide where facilities are available, If Direct Trunked Transport is greater than fifty (50) miles in length, and existing facilities are not available in either Party's network, and the Parties cannot agree as to which Party will provide the facility, the Parties will construct facilities to a mid point of the span.

68. AT&T requests that the Commission eliminate Section 7.2.2.1.5 because it arbitrarily turns all interconnection trunks over 50 miles into mid-span meet arrangements where neither the CLEC nor Qwest have facilities in place and artificially limits Qwest's interconnection obligation under the 1996 Act and shifts the burden to build Qwest's network to the CLEC.

69. Qwest argues that the obligation to permit CLECs to interconnect at any technically feasible point is not without reasonable limits. Qwest wants the CLEC to share in the responsibility of installing such facilities.

70. In the *Local Competition Order*, the FCC acknowledged that there is a reasonable end point to an ILEC's obligation, and stated that it believes the parties and state commissions are in a better position to "determine the appropriate distance that would constitute the required reasonable accommodation of interconnection."

71. Staff states that Qwest has not provided any evidence to support the 50-mile limitation and in its Proposed Findings recommended that the provision be eliminated. Staff reconsidered its recommendation after receiving Comments to the Proposed Findings. Qwest stated that its cost of laying fiber is approximately $50,000 per mile. Qwest is concerned that CLECs will abuse this provision, asking Qwest to build when it is not economical to do so. Qwest states the current language encourages a CLEC to order Direct Trunked Transport ("DTT") in a remote location to serve one customer because Qwest will pay the bill. Qwest asked that the Commission approve the language as is, as adopted by Colorado, Oregon and Washington, or adopt the language approved in Utah and Wyoming. The Utah and Wyoming language provides:

> If Direct Trunked Transport is greater than fifty (50) miles in length, and existing facilities are not available in either parties network, and the parties cannot agree as to which Party will provide the facility, the Parties will bring the matter before the Commission for resolution on individual case basis.

72. Staff believes that because all the parties agree that the circumstances involving Qwest having to construct DTT in excess of 50 miles should be rare, the Utah and Wyoming approach is reasonable and should be adopted in Arizona.

73. We concur with Staff. We cannot approve the 50 mile limitation without additional information on its reasonableness. The Utah and Wyoming approach is a reasonable compromise.

74. The eighth interconnection impasse issue is whether Qwest must allow Multi-Frequency (MF) signaling where its switches are not SS7[4] equipped.

75. AT&T proposed SGAT Section 7.2.2.6.3 concerning Multi-Frequency signaling:

> MF Signaling. Interconnection trunks with MF signaling may be ordered by the CLEC if the Qwest Central Office Switch does not have SS7 capability <u>or if the Qwest Central Office Switch does not have SS7 diverse routing.</u>

76. Qwest protested that AT&T provided no authority that would require Qwest to establish this type of signaling-link redundancy, but subsequently agreed to adopt AT&T's proposed language.

77. Based on Qwest's agreement to adopt AT&T's language, Staff considers this issue to be resolved.

78. We concur.

79. The ninth interconnection impasse issue is whether Qwest's policies and SGAT provision on CLEC interconnection forecasting and deposits are unjust, unreasonable and not at parity with the way Qwest treats itself.

80. AT&T complained that Qwest's SGAT provisions that allow it to require deposits from CLECS is unfair and discriminatory because it is based on forecast utilization rather than actual utilization, thus creating utilization requirements for CLECs that Qwest itself is not held to.

81. MCIW also argued that the SGAT provisions do not adequately reflect the true burden

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[4] Signaling System 7.

the Qwest forecasting processes impose on CLECs for forecasting. MCIW also objected to the fact the SGAT does not require Qwest to provide its relevant trunk forecast to CLECs and, absent some sense of where Qwest will augment its network based upon all forecasts received by Qwest, CLECs cannot plan where to target marketing activities.

82. Qwest states that once a CLEC submits a forecast it has no obligation to order interconnection trunks consistent with its forecast and that there is no way for Qwest to recover its cost of constructing facilities that are likely to go unused without obtaining a deposit.

83. Staff recommends that the Commission adopt AT&T's proposal that usage by others be included in utilization calculations and MCIW's suggestion that Qwest must provide a forecast to the CLECs prior to the CLECs having to provide a forecast to Qwest.

84. Qwest has apparently agreed with Staff's recommendation, as Section 7.2.2.8.6 *et seq.* of Qwest's SGAT filed October 25, 2001 provides:

> 7.2.2.8.6 LIS Forecasting Deposits: In the event of a dispute regarding forecast quantities where in each of the preceding eighteen (18) months, the amount of trunks required is less than fifty percent (50%) of trunks in service, Qwest will make capacity available in accordance with the lower forecast.
>
> 7.2.2.8.6.1 Three weeks after a forecasting cycle, Qwest will provide CLEC feedback in the form of a potentially lower forecast. In the event of a dispute regarding forecast quantities, where in each of the preceding eighteen (18) months, trunks required is less than fifty percent (50%) of trunks in service each month, Qwest will make capacity available in accordance with the higher forecast if CLEC provides Qwest with a deposit according to the following terms. Utilization here refers to the ratio of trunks required versus forecast. As to the difference between the lower and higher forecast, Qwest reserves the right to require, prior to construction, a refundable deposit of up to one hundred percent (100%) of the trunk-group specific estimated cost to provision the new trunks, if CLEC's trunk state-wide average utilization over the prior eighteen (18) months is less than fifty percent (50%) of forecast each month. Qwest will return the deposit if CLEC's state-wide average trunks in service to trunks required (utilization) ratio exceeds fifty percent (50%) within six (6) months of the forecasting period to which the deposit applies. If CLEC does not achieve the fifty percent (50%) utilization within six (6) months Qwest will retain a pro-rata portion of the deposit to cover its capital cost of provisioning. The pro-rata shall assume a full refund when the state-wide average utilization ratio meets or exceeds fifty percent (50%) for any one (1) of the six (6) months following receipt of deposit. The pro-rata assumes half of the deposit is refunded when the highest state-wide average utilization ratio for any one of the six months after receipt of deposit is twenty five percent (25%). In the event Qwest does not have available facilities to provision Interconnection trunking orders that CLEC

> forecasted and for which CLEC provided a deposit, Qwest will immediately refund a pro rata portion of the deposit associated with its facility shortfall. Ancillary trunk groups, such as mass calling, are excluded from the ratio.
>
> 7.2.2.8.6.2 Qwest shall include in the trunks-required calculation any usage by others, including but not limited to Qwest itself, of facilities for which that CLEC has made deposit payments. Qwest shall credit such usage to the same degree and in the same manner that Qwest credits CLEC's usage. In any calendar quarter where Qwest determines that a full refund of deposit amount to CLEC is not warranted, Qwest shall upon request of CLEC, no less than thirty (30) days after the end of such quarter, provide CLEC with a report showing how the refund amount (or lack of refund) was calculated. Audits of such amounts may be requested by CLEC to verify the inclusion of all appropriate usage.
>
> 7.2.2.8.7 Joint planning meetings will be used to bring clarity to the process. Qwest shall provide a forecast to CLECs prior to the provision of a forecast by CLEC to Qwest and the joint planning session. Qwest shall work cooperatively with CLECs in determining proper volumes of Interconnection facilities through joint, cooperative planning sessions. . . ."

85. Qwest's October 25, 2001 SGAT includes the language proposed by AT&T and MCIW and recommended by Staff. Such additions clarify the forecast process and should be adopted.

86. The tenth interconnection impasse issue is whether Qwest's SGAT Section 7.2.2.9.3.2 regarding the use of trunks unreasonably hinders competition.

87. Qwest has modified its SGAT to allow for commingling different types of traffic on the same trunk. The remaining issue is how to charge a CLEC that is using an entrance facility for both interconnection and special access (long distance) service. The special access rate is a federal tariffed rate and is higher than the cost-based rates CLECs would pay for interconnection and access to UNEs.

88. Qwest states that until the FCC is clearer on local traffic "ratcheting" that impacts Federal rates on LEC transport provided to originate and terminate interexchange carrier calls, Qwest will not discount transport charges associated with mixed-use trunk groups. Qwest argues that CLECs should pay the full cost of the special access circuit.

89. The CLECs argue that by not allowing for the proportionate pricing of trunk facilities, Qwest is over-recovering the cost of the facilities.

90. In its Final Report, Staff recommended that the Commission adopt the Washington Commission's resolution of the issue that states that "where a CLEC uses a DS-3 for both interconnection and access, it should pay a proportionate rate based on the two applicable DS-3 rates. The same principle of pricing should apply in any other circumstance where a service or facility has more than one applicable rate."

91. In its Comments on Staff's Final Report, Qwest states that, contrary to the statement in para. 364 of the Final Report, Qwest has never agreed to the Washington Commission's decision to require proportional pricing and has a Motion for Reconsideration pending. Further, Qwest asserts that all states that have considered the issue, except Washington, have rejected it. Furthermore, Qwest argues the FCC considered the CLEC arguments and specifically rejected them in its *Supplemental Order Clarification*.[5] The FCC stated that it was not convinced that lifting the prohibition would not lead interexchange carriers to use TELRIC-rate facilities to bypass switched access. In the Multi-State proceeding, the Facilitator found that "[a]ccess charges have been and continue to be an important mechanism for commissions in achieving the goal of universal service. Adoption of SGAT provisions that have the potential to undermine the effectiveness of the current pricing mechanism for special access requires a more comprehensive review of all Qwest pricing policies and their effect on universal service than has been accomplished in this proceeding." Qwest argued that it is especially important to maintain the status quo given the fact the FCC is likely to revisit this issue and give further guidance.

92. In its Response in Opposition to Qwest's Comments Regarding Staff's Final Recommended Decision on Checklist Item 1, AT&T explains its position:

> AT&T would purchase, as it typically does a DS3 facility from Qwest. A DS3 facility contains 28 DS1 trunks. Some of the DS1 trunks would be designated as carrying special access (long distance) traffic and some would be designated as carrying local traffic (interconnection trunks). Still others might be designated as being used to access UNEs. Qwest would know which trunks are which and no traffic that should be routed over the local traffic trunk could traverse the special access trunks. Furthermore, AT&T would pay for the DS1 trunks according to their

[5] Supplemental Order Clarification, *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC00-183 (June 2, 2000).

> designations. Thus, the DS1s designed for interconnection would be paid for using TELRIC rates, the DS1s designated for special access would be paid for using the access rates and the DS1s used to access UNEs would be paid for using TELRIC rates.

AT&T asserts that because the DS1s designated for special access or long distance would be specifically identified and billed according to required access rates, USF funding would remain intact, as CLECs as IXCs would be paying the appropriate amount for continued support of USF.

93. The CLECs argue that the FCC's *Supplemental Order* and *Supplemental Order Clarification* are limited to the commingling of access traffic/long distance on unbundled network elements/loops and do not preclude proportional pricing.

94. We agree with Staff that the proportional pricing of the DS3 facility is fair and reasonable. Neither the FCC's *Supplemental Order* nor *Supplemental Order Clarification* prohibits it. Rather, these orders are concerned with preventing IXCs from using unbundled network elements solely or primarily to bypass special access services pending the FCC's ultimate resolution of the issue. Under the CLEC proposal, the CLECs are paying the appropriate rates for facilities employed for special access, but are not required to pay the higher special access rates for facilities used for local service. Where traffic and facilities can be isolated and identified as they are here, the rates associated with that facility/traffic should be charged. Qwest should revise its SGAT accordingly.

95. The eleventh interconnection impasse issue is whether Qwest's failure to allow the CLEC to select its point(s) of technically feasible interconnection violates Section 271.

96. AT&T argued that Qwest's SGAT should allow CLECs to interconnect at the access tandem without condition. Qwest had been allowing CLECs to interconnect at the access tandem unless there was a local tandem serving a particular end office.

97. Qwest agreed to modify its SGAT Section 7.2.2.9.6 such that a CLEC may interconnect for the exchange of local/EAS traffic at either the Qwest access tandem or the Qwest local tandem, at the CLEC's option, and subject to the 512 CCS Rule.

98. In its Proposed Findings, Staff recommended adopting the Multi-State Facilitator's resolution of the issue.

99. AT&T asserts that the Multi-State approach requires CLECs to trunk to end-office switches where there is a DS-1 level of traffic between a CLEC's switch and the Qwest End Office

switch, and then fashions an unclear, ambiguous and unworkable "cost-equivalency proposal" for access to local tandems.

100. Qwest claims that Staff's resolution makes the 512 CCS Rule optional rather than required. Qwest states that under the resolution expressed in the Proposed Findings CLECs can effectively carry all of their traffic through access tandems, which Qwest believes will cause significant problems for the network. Qwest states that its long distance network is not designed to handle all of the long distance traffic and a substantial and increasing percentage of local traffic. Qwest argued the safeguard to the network is to require CLECs to utilize direct trunks (move away from the access tandem and create a direct connection between their switch and the end office that receives the increased volume of traffic) when industry recognized engineering standards warrant the transition. This is known as the 512 CCS rule. 512 CCS (centum call seconds) is the equivalent of one DS-1 worth of traffic. Qwest states that this is widely recognized as the point where economics warrant moving away from tandem trunks to direct trunks.

101. Staff believes that Qwest's and AT&T's comments concerning the Multi-State language are legitimate. Staff recommends the following languag:

> 7.2.2.9.6 CLEC may interconnect for the exchange of local/EAS traffic at either the Qwest access tandem or the Qwest local tandem, at the CLEC's option. When the CLEC is interconnected at the access tandem and where there would be a DS1's worth of local traffic (512 CCS so long as not 512 busy hour CCS) between CLEC's switch and a Qwest end office subtending the Qwest access tandem, CLEC will order a direct trunk group to that Qwest end office. CLEC may request a waiver of this provision from the Commission upon a showing that such compliance will impose a material adverse economic or operations impact, during the pendency of which Qwest shall maintain the status quo.
>
> 7.2.2.9.6.1 Qwest will allow Interconnection for the exchange of local traffic at Qwest's access tandem without requiring Interconnection at the local tandem, at least in those circumstances when traffic volumes do not justify direct connection to the local tandem; and regardless of whether capacity at the access tandem is exhausted or forecasted to exhaust unless Qwest agrees to provide interconnection facilities to the local tandems or end offices served by the access tandem at the same cost to the CLEC as interconnection at the access tandem.

102. We find Staff's revised recommended language is reasonable and fair and should be

adopted. It addresses the CLECs' concerns that they can interconnect at access tandems when traffic volumes do not warrant a direct trunk and also Qwest's concerns that increased volume through the access tandem could be detrimental to the network.

103. Qwest's October 25, 2001 SGAT filing incorporates Staff's proposed language.

104. The twelfth interconnection impasse issue was whether the requirement of SGAT Section 9.4.5, which requires interconnection by trunks only to end offices and local tandems, violates Section 271.

105. Our resolution of the previous impasse issue and Qwest's modification of its SGAT to eliminate Section 7.4.5 resolves this issue.

106. The thirteenth interconnection impasse issue is whether Qwest's definition of "Tandem Office Switch" in SGAT Section 4.11.2 violates Section 271.

107. We resolved this issue in Decision No. 63977 (August 30, 2001) when we approved Staff's Final Report on Checklist Item No. 13 – Reciprocal Compensation. We ordered Qwest to revise its SGAT definition of Tandem Switch to recognize the FCC's symmetrical compensation rule and the tandem interconnection rate symmetry rule. Pursuant to our findings in Decision No. 63977, Qwest revised SGAT Section 7.3.4.2.1 and the definition of "Tandem Offices Switches".

108. The fourteenth interconnection impasse issue is whether Qwest's definition of "Meet Point Billing" in Section 4.39 is unjust and unreasonable in violation of Section 271.

109. The CLECs argue that by subjecting Internet Protocol ("IP") traffic to switched access charges, Qwest is compromising the CLECs' rights to receive compensation for terminating traffic to Qwest and improperly requires the payment of access charges for local traffic. The CLECs note that the FCC has exempted Enhanced Service Providers ("ESPs") including Internet Service Provider ("ISP") traffic from switched access charges and has never ruled that IP traffic should be subject to switched access charges.

110. Qwest has removed IP Telephony language from Sections 4.39 and 4.57. We find the parties have resolved this issue.

111. The fifteenth interconnection impasse issue is whether in SGAT Sections 7.5.4 and 7.6.3 Qwest should charge for Individual Call Records for Transit.

112. MCIW argues that in the past MCIW and Qwest have not charged each other for such call records and that the cost to provide and store this data exceeds the benefit either party derives. MCIW questions whether the cost associated with tracking and assessing such a charge is justified in view of the minimal cost associated with performing the database query to retrieve the 11-01-XX and 11-50-XX records and transmit them in an EMR mechanized format.

113. Qwest argues that this charge applies to Qwest and CLECs alike, and states that in the past a modest charge has commonly been applied in contract accounting services agreements. Qwest states that if MCIW has an issue with the actual rate that is reciprocally charged, it can raise those concerns in the Wholesale Cost Docket.

114. In its Comments to the Final Report, Qwest suggests that the Commission consider this issue in the Wholesale Cost Docket. In its December 6, 2001 Response, Staff does not object to Qwest's proposal.

115. In its Comments to the Final Report, Qwest says it does not understand the difference between "number of records processed" and "number of records transmitted." However, we do not have sufficient information in this docket to evaluate MCIW's concerns. We believe that the matter is more appropriately addressed in the Wholesale Cost Docket.

116. We concur with Staff that carriers should be able to charge each other for the costs they incur. We do not believe that Exhibit A currently provides sufficient information to determine how the charges pursuant to Sections 7.5.4 and 7.6.3 are currently assessed or whether the full range of records is sufficiently addressed.

COLLOCATION IMPASSE ISSUES

117. The first collocation impasse issue is whether Qwest illegally limits the CLECs' right to collocate at remote and adjacent premises.

118. The CLECs argue that Qwest refuses to comply with the law by disallowing all virtual collocation in what it defines as "Remote Premises" and in any adjacent premises. FCC rules allow incumbent LECs to offer virtual collocation where the space in the incumbents' premises is not sufficient for physical collocation.

119. Qwest states that it extended its offer of collocation to include its remote premises

which are defined in SGAT Section 4.50(a) to include non-wire center premises such as controlled environmental vaults, controlled environmental huts, cabinets, pedestals and other remote terminals.

120. Staff states that to satisfy its obligation under the 1996 Act and FCC Orders, Qwest should be required to modify its SGAT to assure that virtual collocation in remote locations is not precluded or limited to any greater extent than at wire centers. Staff notes that 47 CFR 51.323(a) does not contain any limitations on providing virtual collocation. Staff recommends that Qwest revise its SGAT to allow remote virtual collocation. Staff does not recommend that Qwest be required to allow virtual collocation at remote terminals utilizing a "card by card" approach because this method is not currently done in the central office or required by the FCC.

121. Qwest revised its SGAT and asserts that it complies with Staff's recommendations in the Final Report. Neither Staff nor the CLECS have commented whether Qwest's revised SGAT language is sufficient to address their concerns about virtual collocation at remote premises. We find that the revised SGAT does not appear to limit virtual collocation at remote locations, and absent further comment by the parties, should be approved.

122. The second collocation issue is whether Qwest's definition of collocation to encompass access to the Network Interface Device ("NID") or its equivalent at Multiple Dwelling Units ("MDUs") and Business Campuses in SGAT Section 8.1.1.8.1 prevents CLECs from accessing those end-user customers at parity with Qwest.

123. AT&T argues that Qwest's SGAT Section 8.1.1.8.1 provides that cross-connections between a CLEC's NID and Qwest's NID, located at multiple tenant environments ("MTEs") or MDUs constitutes a form of collocation that is subject to unknown provisioning intervals.

124. Qwest states that it has agreed not to require collocation in MTE terminals located in or attached to customer-owned buildings where no electronic equipment, power or heat dissipation is required. Based on its concession, Qwest believes this issue is resolved.

125. Staff states that no party filed comments to Staff's Proposed Findings and Qwest's proposal appears to be acceptable to the parties.

126. We find that this issue is resolved.

127. The third collocation impasse issue is whether Qwest is creating allegedly "new"

products and policies that, by their individual terms and conditions, undermine Qwest's actual compliance with its obligations under the 1996 Act, the SGAT and Interconnection Agreements.

128. The CLECs state that SGAT Section 8.1.1 identifies eight standard types of collocation offered by Qwest and also provides that other types of collocation may be requested through the BFR process. The CLECs argue that the BFR process is plagued with unwarranted delay that impedes competition.

129. The CLECs also complain that Qwest unilaterally alters its agreements by means of written policies and performance requirements that are inconsistent with its interconnection agreements and the SGAT. They claim that Qwest demands that the CLECs subscribe to these policies regardless of the terms of the SGAT or interconnection agreements.

130. Qwest argues that it would be unreasonable to require it to offer a new product or service without prior agreement to the terms and conditions under which the product or service is offered. Qwest states it has gone beyond the 1996 Act's requirements by showing a willingness to allow CLECs simply to opt in to the terms and conditions of a new product, without having to amend their actual agreements, by offering to make products available immediately under the terms and conditions consistent with that product offering.

131. Staff believes that the fact that a new form of collocation may develop gives rise to a number of unknowns, and it would be unreasonable to impose a blanket requirement that any new forms of collocation must be available under the same terms and conditions as apply to those already known. Staff believes the BFR process is useful in this context. Staff states that concerns arising out of the BFR process should be addressed in the workshop on General Terms and Conditions. Staff recommends that SGAT Section 8.1.1 should be revised to incorporate the Multi-State language:

> Other types of collocation may be requested through the BFR process. In addition, where Qwest may offer a new form of collocation, CLEC may order that form as soon as it becomes available and under the terms and conditions pursuant to which Qwest offers it. The terms and conditions of any such offering by Qwest shall conform as nearly as circumstances allow to the terms and conditions of this SGAT. Nothing in this SGAT shall be construed as limiting the ability to retroactively apply any changes to such terms and conditions as may be negotiated by the parties or ordered by the state commission or any other competent authority.

Staff believes that the issue of Qwest unilaterally altering its agreement through the development of written policies and performance requirements is also more appropriately addressed in the General Terms and Conditions Workshop because it is not unique to collocation.

132. We find that Staff's recommendations are reasonable and should be adopted. We note that we have not yet seen the Staff Report arising out of the Workshop on General Terms and Conditions, and we reserve our right to re-address these issues outside of the forthcoming report on General Terms and Conditions if necessary.

133. The fourth collocation impasse issue is whether Qwest has created numerous unnecessary exceptions to its compliance with timely collocation intervals.

134. The CLECs state that the FCC has established intervals in which Qwest should provide collocation, specifically: within 10 calendar days after receiving an application, Qwest must inform the CLEC whether its application meets collocation standards; within 90 calendar days Qwest must complete physical collocation arrangements; Qwest must finish construction and turn functioning space over to the CLEC within the 90-day interval; longer intervals must be submitted to the state commission for approval. They state the FCC has not yet set intervals for virtual collocation, but has declared that "intervals significantly longer than 90 days generally will impede competitive LECs ability to compete effectively."

135. The CLECs argue that four of Qwest's SGAT sections create unwarranted exceptions to Qwest's obligations to provide timely and reasonable collocation for CLECs within the 90-day intervals. In particular, they claim SGAT Section 8.4.1.9 imposes excessive limitations on the number of collocation applications a CLEC may submit. SGAT Section 8.4.1.9 provides:

> The intervals of Virtual Collocation (Section 8.4.3), Physical Collocation (Section 8.4.3) and ICDF Collocation (Section 8.4.4) apply to a maximum of five (5) Collocation Applications per CLEC per week per state. If six (6) of more Collocation orders are submitted by CLEC in a one-week period in the state, intervals shall be individually negotiated. Qwest shall, however, accept more than five (5) Applications from CLEC per week per state, depending on the volume of Applications pending from other CLECs.

Furthermore, the CLECs argue Sections 8.4.2.4.3, 8.4.3.4.3 and .4, and 8.4.4.4.3 and .4 impose excessive provisioning intervals for virtual, physical and ICDF collocation in violation of FCC orders and Section 271. The SGAT provisions extend Qwest's interval for provision to 120 days when a CLEC has not included a premises in a forecast at least 60 days prior to the application. The CLECs assert there are only three general exceptions to the 90-day interval: (a) state deadlines; (b) mutually agreed deadlines; and (c) lack of space in the premises.

136. The CLECs also complain that even when space is available, Qwest demands a detailed forecast 60 days in advance of an actual order before it will agree to the 90-day interval. AT&T asserts that five months (150 days) is an outrageous amount of time to obtain collocation particularly in the case of cageless physical collocation requests where appropriate space is readily available forecasted or not.

137. Qwest maintains its ability to meet FCC established intervals depends on CLEC forecasts. Qwest argues that its reliance on forecasts in establishing collocation provision intervals is appropriate and has been approved by the FCC. Qwest cites the *Order on Reconsideration*, arguing the FCC expressly permits incumbents to "require a competitive LEC to forecast its physical collocation need," and ". . . [to] penalize an inaccurate forecast by lengthening a collocation interval," if authorized by the state commission. On November 7, 2000, in response to requests by Qwest, Verizon and SBC, which sought waivers from the 90-day default interval, the FCC released an *Amended Order*,[6] which clarified its earlier decision and established interim standards that apply specifically to Qwest in place of the 90-day default interval during the pendancy of the FCC's on-going reconsideration of its *Order on Reconsideration*. The interim standards require timely forecasts from CLECs as a condition for provisioning collocation in a 90-day time frame. The interim standards also allow for longer intervals (150 days) for unforecasted collocation applications not requiring major infrastructure modifications, and even longer when major infrastructure modifications are required. Qwest states that with respect to provisioning Interconnection Distribution Frame Collocation ("ICDF"), Qwest will meet a 90-day interval despite the lack of a forecast.

138. Qwest also argues that the Commission should authorize additional time to install

[6] Memorandum Opinion and Order, *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 960147, FCC 00-2528 (rel. November 7, 2000).

collocations where a high volume of applications are received in a short period of time. Qwest states the FCC found in its *Order on Reconsideration*, that state commissions can adopt " . . . either shorter or longer [intervals] than the national default standard, based on the facts before that state, which may differ from our record here."

139. Staff believes that the volume limitations contained in SGAT Section 8.4.1.9 are unreasonable and inconsistent with current FCC rules. Staff states that 47 CFR Section 51.232 does not provide for an exemption from the provisioning deadlines based on the volume of orders, and notes that other state commissions have required Qwest to remove the provision. Staff recommends that Qwest delete SGAT Section 8.4.1.9. Staff believes that the FCC Order requires Qwest to minimize application of the 60-day interim extension and that where it can provide the collocation space in 90 days, even if unforecasted, Qwest must do so.

140. We agree with Staff concerning SGAT Section 8.4.1.9. Qwest's October 25, 2001 SGAT filing has deleted this Section. The FCC has specifically considered and approved the need for forecasts in meeting provisioning intervals. In its Order on Reconsideration at para. 19, the FCC held:

> We also find Qwest's proposed reliance on forecasts reasonable as an interim measure to the extent it permits a 60-day increase in interval length when the carrier requesting collocation has failed to provide a timely and accurate forecast. We therefore will allow Qwest to increase the provisioning interval for a proposed physical collocation arrangement no more than 60 calendar days in the event a competitive LEC fails to timely and accurately forecast the arrangement, unless the State commission specifically approves a longer interval.

Qwest's SGAT provisioning intervals are within the FCC's interim intervals and are reasonable. However, we agree with Staff that even if a request was not forecasted, Qwest should make provide the collocation within 90 days when the space is available and no special conditioning is required. Furthermore, Qwest shall notify the Commission when the FCC makes a final determination on Qwest's Request for Reconsideration at which time the Commission will determine if further SGAT revisions concerning interval limits are warranted.

141. The fifth collocation impasse issue is whether Qwest's refusal to post notice to CLECs of full collocation premises competitively disadvantages CLECs.

142. AT&T argues that Qwest is not abiding by its SGAT provision to post all full collocation premises, as Qwest will only list wire centers and not all premises. Further, AT&T claims Qwest will only post those wire centers that it discovers are full as a result of provisioning a Space Availability Report to a CLEC that has requested collocation in a particular wire center. AT&T proposed a compromise under which Qwest would post all wire centers in the state that are full and a list of premises, other than wire centers, that are full, where it has prepared a Space Availability Report for a CLEC.

143. SGAT Section 8.2.1.13 provides that Qwest will maintain a publicly available document available on its website indicating all premises that are full and will update it within 10 calendar days of the date which a premises runs out of physical space. All premises include wire centers and remote premises. Qwest states this is consistent with the FCC rule which states :

> [U]pon request, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. . . The incumbent LEC must maintain a publicly available document, posting for viewing on the incumbent LEC's publicly [sic] available Internet site, indicating all premises that are full, and must update such a document within ten days of the date at which a premises runs out of physical collocation space.

Qwest states that when read as a whole there is nothing in the FCC regulation that requires Qwest to inventory all premises, regardless of whether any CLEC has an interest in any particular premises. Qwest asserts its duty under the regulation is to report when space has been exhausted at a premises, based on information collected as a result of CLEC inquiries. Nonetheless, Qwest has added language to SGAT Section 8.2.1.13 as follows: "notwithstanding the foregoing, the Qwest web site will list and update within the ten (10) day period, all Wire Centers that are full, whether or not there has been a CLEC requested Space Availability Report."

144. Staff believes that Qwest has addressed AT&T's concerns and that this issue is resolved.

145. We concur.

146. The sixth collocation impasse issue is whether Qwest's SGAT arbitrarily increases the expense of collocation for the CLEC in developing and defining certain collocation rate elements and

by leaving other rates to be determined on an Individual Case Basis ("ICB").

147. The CLECs objected to SGAT Section 8.3.1.9 that imposed a channel regeneration charge when the distance between the CLEC's collocation space and Qwest's network facilities is so great as to require regeneration. CLECs also objected to SGAT Sections 8.3.5.1 and 8.3.6 that price adjacent and remote collocation on an ICB. They assert that Qwest should develop a set of standard adjacent and remote collocation offerings, and that allowing pricing on an ICB basis leads to delay and unjust pricing.

148. Qwest states that it has no experience in provisioning either adjacent or remote collocation and has no rate information for these products. Qwest also argues that it has an obligation to provide the most efficient means of interconnection, but that where regeneration is unavoidable, Qwest is permitted to recover the costs.

149. Staff believes that Qwest's proposal to price adjacent and remote collocation on an ICB basis is reasonable at this time. Staff states that Qwest has indicated in the Wholesale Pricing Docket that when reliable pricing data becomes available for products, it will eliminate ICB pricing with established rates. Staff recommends that Qwest should not charge for regeneration when there exists another available collocation location where regeneration would not be required, or where there would have been such a location, had Qwest not reserved space for its future use in the affected premises.

150. We agree that pricing adjacent and remote collocation on an ICB basis is reasonable until such time as standard rates can be developed. We resolved the issue of regeneration charges in Decision No. 64216 (November 20, 2001) approving the Final Report for Checklist Item No. 5 – Unbundled Local Transport. Therefore, no addition SGAT revisions related to this issue are required at this time.

151. The seventh collocation impasse issue is whether Qwest's space reservation policies in SGAT Section 8.4.1.7 favor Qwest over the CLEC.

152. AT&T opposes Qwest's proposal to require CLECs to forfeit their space reservation fee upon cancellation of the reservation. MCIW argues that the space reservation obligations for Qwest and the CLECs are discriminatory, requiring CLECs to incur greater obligations such as

preparing the Collocation Space Reservation Application Form, paying nonrecurring charges, or forfeiting nonrecurring deposits.

153. Qwest states the FCC has expressly deferred to the states to develop space reservation policies. Qwest claims it has made the reservation policy more attractive to CLECs by lowering the price and creating a right of first refusal policy, but that there must be some consequence to the CLEC for unused reservations to discourage disingenuous use of the reservation option. Qwest argues this policy not only protects Qwest but other CLECs. Qwest cites 47 CFR § 51.323(f)(6) which provides, "[a]n incumbent LEC may impose reasonable restrictions on the warehousing of unused space by collocating telecommunications carriers . . . ." The partially refundable reservation deposit will be applied towards the cost of collocation when actually ordered, and used to offset costs of provisioning. Qwest argues it is a fair balance and a "reasonable restriction on the warehousing of unused space," that is permitted by FCC regulation.

154. Staff believes that Qwest's proposal is supported by the need for recovery of actual costs and the prevention of wasteful or inappropriate use of space reservation. Staff declined to recommend AT&T's proposed language that would require Qwest to refund a larger amount if it did not incur expenses equal to the nonrefunded part of the deposit. Staff believes that AT&T's proposal does not recognize that Qwest absorbs or incurs carrying costs associated with warehousing space for a CLEC, and that Qwest is entitled to recover those costs.

155. We agree, the nonrefundable space reservation deposit is not unreasonable, however, upon completion of the collocation, Qwest shall refund any difference between the actual costs it incurred and the non-refundable deposit. The amount of Qwest's carrying costs should be considered in the Wholesale Cost Docket.

156. The eighth collocation impasse issue is whether Qwest is obligated to offer Shared Cageless Collocation.

157. Covad argues that Qwest's SGAT permits only "shared caged physical collocation and not "shared cageless collocation." Covad asserts Qwest has not demonstrated that shared cageless collocation is not technically feasible.

158. Qwest argues that an ILEC's only duty is to provide shared physical collocation in a

caged environment, and Rule 51.323(k)(2) makes no allowance for sharing in a cageless environment. Qwest asserts that absent an FCC mandate, there is no justification for forcing it to restructure its systems. Qwest states that CLECs can request sharing collocation in a cageless environment through the BFR process.

159. Staff supports Qwest's position concerning shared cageless collocation. Staff believes, however, that Qwest should revise its SGAT to allow for the subleasing of cageless collocation space, and that Qwest's involvement in such sublease arrangements should be minimal.

160. We agree with Staff. The FCC has not required ILECs to make shared cageless collocation available. Furthermore, Qwest should modify its SGAT in accordance with Staff's recommendation concerning subleasing.

CONCLUSIONS OF LAW

1. Qwest is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. Sections 40-281 and 40-282 and the Commission has jurisdiction over Qwest.

2. The Commission, having reviewed the Final Report on Qwest's Compliance with Checklist Item No. 1 dated October 12, 2001, and conditioned upon Qwest's satisfactory compliance with the findings adopted herein, and further subject to Qwest passing relevant performance measurements in the third-party OSS test, concludes that Qwest has met the requirements of Section 271 pertaining to Checklist Item No. 1, and the Commission hereby approves and adopts the revised Final Report on Qwest's compliance with Checklist Item No. 1 as modified herein.

ORDER

IT IS THEREFORE ORDERED that the Final Report dated October 12, 2001, on Qwest's compliance with Checklist Item No. 1 is hereby adopted as modified.

IT IS FURTHER ORDERED that Qwest Corporation shall file by March 29, 2002, proposed SGAT language that incorporates the Findings and Conclusions herein.

IT IS FURTHER ORDERED that CLECs and other interested parties shall have ten days following Qwest Corporation's filing of the revised SGAT language to file written comments concerning the proposed SGAT language.

IT IS FURTHER ORDERED that Commission Staff shall file within twenty days of Qwest Corporation's filing, its recommendation to adopt or reject the proposed SGAT language and a procedural recommendation for resolving any remaining dispute.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN	COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 4TH day of MARCH, 2002.

for BCM

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT

JR:dap

DECISION NO. 64600

SERVICE LIST FOR: U S WEST COMMUNICATIONS, INC. (SECTION 271)

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IN THE MATTER OF QWEST COMMUNICATION, INC.'S SECTION 271(C) APPLICATION

ACC Docket No. T-00000A-97-0238

FINAL REPORT ON QWEST'S COMPLIANCE

With

CHECKLIST ITEM: NO. 1 – INTERCONNECTION AND COLLOCATION

OCTOBER 12, 2001

64600

DECISION NO.

I. FINDINGS OF FACT

A. PROCEDURAL HISTORY

1. On August 16, 2000, the first Workshop on Checklist Items No. 1 (Interconnection/Collocation), No. 11 (Location Routing Number) and No. 14 (Resale) took place at Hewlett-Packard's facilities in Phoenix. Parties appearing at the Workshop included Qwest, AT&T, MCI WorldCom, Rhythms Links, Electric Lightwave, Sprint and the Residential Utility Consumer Office ("RUCO"). Qwest relied upon its original testimony submitted in March, 1999 and filed a Summary Brief on June 30, 2000. Additional comments were filed on August 3, 2000 by AT&T, MCI, Rhythms and ELI. Qwest filed Rebuttal Comments on August 10, 2000. On February 13, 2001, an additional Workshop was conducted on Checklist Item 1.

2. While many issues were successfully resolved between the parties, Checklist Item 1 was deemed "disputed" due to parties' inability to come to agreement on a number of issues which eventually went to impasse. The Proposed Findings of Fact and Conclusions of Law contain Staff's recommendation as to each of the disputed issues. Comments on Staff's Proposed Findings of Fact and Conclusions of Law were filed by AT&T, Qwest and WorldCom. Following is the Staff's Final Report on Qwest's compliance with Checklist Item 1.

B. DISCUSSION

1. Checklist Item No. 1

a. FCC Requirements

3. Section 271(c)(2)(B)(i) of the Telecommunications Act of 1996 requires a 271 applicant to provide or offer to provide "[i]nterconnection in accordance with the requirements of section 251(c)(2) and 252(d)(1)."

4. Section 251(c)(2) imposes upon incumbent LECs "the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network... for the transmission and routing of telephone exchange service and exchange access.

5. Pursuant to Section 251(c)(2), such interconnection must be: (1) provided "at any technically feasible point within the carrier's network;" (2) "at least equal in quality to that provided by the local exchange carrier to itself or ... [to] any other party to which the carrier provides interconnection;" and (3) provided on rates, terms, and conditions that are "just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of [section 251] ... and section 252.

6. Section 251(c)(6) requires incumbent LECs to provide physical collocation of equipment necessary for interconnection unless the LEC can demonstrate that physical

collocation is not practical for technical reasons or because of space limitations. In that event, the incumbent LEC is still obligated to provide virtual collocation of interconnection equipment.

7. Section 252(d)(1) of the Act states that "[d]eterminations by a State Commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of [section 251(c)(2)] … (A) shall be (i) based on cost … of providing the interconnection …and (ii) nondiscriminatory, and (B) may include a reasonable profit."

b. Background

1. Interconnection

8. Interconnection provides the means to connect the Qwest network with the network of a CLEC for the exchange of calls. Qwest 2-1 at p. 5. Section 251(c)(2) imposes upon Qwest: [t]he duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network — (A) for the transmission and routing of telephone exchange service and exchange access; (B) at any technically feasible point within the carrier's network; (C) that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection; and (D) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory... AT&T 2-1, at p.3.

9. The FCC has established a minimum of six required points of interconnection Qwest must provide. Qwest 2-1 at p. 7. The minimum points of interconnection are: (1) line-side of a local switch; (2) trunk-side of a local switch; (3) trunk interconnection points for a tandem switch; (4) central office cross-connection points; (5) signal transfer points; and (6) points of access to unbundled elements. Id.

10. The FCC has also defined "equal-in-quality" to require the incumbent LEC "to provide interconnection between its network and that of a requesting carrier at a level of quality that is at least indistinguishable from that which the incumbent provides itself, a subsidiary, an affiliate, or any other party." AT&T 2-1, p. 4. The Arizona Corporation Commission's Rules require further that terminating providers must make all required interconnection facilities available within six months of a bona fide written request. And such request must be met without delay, discrimination or unreasonable refusal. AT&T 2-1, p 4.

11. The FCC has further defined "just, reasonable, and nondiscriminatory" in the context of interconnection to mean:

> that an incumbent LEC must provide interconnection to a competitor in a manner no less efficient than the way in which the incumbent LEC provides comparable function to its own retail operations. AT&T 2-1, p. 5 FCC BANY order ¶ 65.

2. Collocation

12. Collocation is the term used to describe the ability of a CLEC to put its equipment in the incumbent LEC's wire center building and join the CLEC's equipment to the incumbent LEC's equipment (interconnection). Qwest 2-1 at p. 20. More specifically, collocation allows a CLEC to place cables into a Qwest central office and to terminate those cables on transmission equipment owned by the CLEC. Id. The CLEC's transmission equipment can be interconnected to the Qwest network through connections referred to as "Interconnection Tie Pairs" (ITP). Id. The ITP provide for interconnection with a wide variety of network services, including trunk-side ports on end office and tandem switches, unbundled loops, and other private line facilities. Qwest 2-1 at p. 20.

13. Checklist Item One requires that Qwest permit interconnection at "any technically feasible point" within Qwest's network. Qwest 2-1 at p. 19. Qwest facilitates interconnection within Qwest's central office buildings through collocation. Id. As such, collocation is a means to demonstrate compliance with the interconnection requirements of the checklist. Id. Collocation also facilitates CLEC access to unbundled network elements or ancillary services. Id.

14. Competitors may "collocate" for interconnection or access to the incumbent's network within the premises of the incumbent. AT&T 2-1 at p. 5. Carriers accomplish collocation in two ways: (a) physical collocation; and (b) virtual collocation. Id.

15. Physical collocation is basically "an offering by an incumbent LEC that enables a requesting carrier" to place its interconnection and access equipment within or upon an incumbent's premises. AT&T 2-1 at p. 5. 47 CFR § 51.5 (definition of "Physical Collocation"). Virtual collocation is "an offering by an incumbent LEC that enables a requesting carrier to" designate equipment to be used for interconnection or access to UNEs, transmission and routing and exchange access. (definition of "Virtual Collocation"). Id.

16. There are five standard forms of physical collocation – 1) caged, 2) shared, 3) cageless, 4) InterConnection Distribution Frame (ICDF) and 5) a new form called Common Area Splitter collocation to support line sharing arrangements. Qwest 2-2 at p. 3.

1) Caged Physical Collocation – allows the CLEC to place its equipment in a secure cage inside Qwest's building. Qwest 2-2 at p. 3.

2) Shared Physical Collocation – allows two CLECs to share space in accord with terms and conditions agreed to between the two CLECs. Qwest 2-2 at p. 3.

3) Cageless Physical Collocation – allows the CLEC to place its equipment in the Qwest's central office in small increments of floor space among Qwest or other CLEC equipment and not

separated from other provider's equipment by a secure barrier. Qwest 2-2 at p. 3.

4) InterConnection Distribution Frame (ICDF) Collocation – offered to CLEC's who do not require their active equipment to be placed in the Qwest central office, but who do require physical access to unbundled network elements for the purpose of combining. Qwest 2-2 at p. 3.

5) Common Area Splitter Collocation – is similar to ICDF Collocation, allows a CLEC to place a Digital Subscriber Line (DSL) "splitters" on "common" (shared cageless) floor space in a Qwest central office building. Qwest 2-2 at p. 3. This affords a CLEC a means of providing advanced data services within the frequency spectrum of an existing Qwest retail end user's analog voice-grade telephone service. Id.

17. There are two standard forms of virtual collocation – 1) standard, and 2) adjacent. Qwest 2-2 at p. 3.

1) Standard Virtual Collocation – allows a CLEC to deliver equipment to Qwest for ILEC engineering, installation, and maintenance on behalf of the CLEC. Qwest 2-2 at p. 3.

2) Adjacent Space Collocation – provides CLECs with another option when space is unavailable within a Qwest central office building. Qwest 2-2 at p. 4. Space may be available in adjacent controlled environmental vaults that may be owned by Qwest or can be constructed or procured by a CLEC and placed on Qwest property. Id.

18. Physical and virtual collocations are relatively similar but differ in a few significant ways. Qwest 2-1 at p. 21. Under a physical collocation arrangement, the CLEC engineers, installs and maintains its own equipment in the collocation space provided by Qwest. Id. The CLEC has access to its leased floor space and the ICDF collocation for the purpose of combining its equipment with Qwest's unbundled network elements, ancillary services or finished services. Id. ICDF is offered for the purpose of facilitating a CLEC's combining of unbundled network elements. Qwest 2-1 at p. 21.

19. Under virtual collocation, the CLEC's equipment is turned over to Qwest for installation and maintenance of the CLEC equipment. Qwest 2-1 at p. 21. The difference between physical and virtual collocation is dependent on who installs and maintains the CLEC's transmission equipment in the collocation space provided by Qwest. Id. If the CLEC installs and maintains the transmission equipment, then it constitutes a physical collocation. Id. If Qwest installs and maintains the CLEC's transmission equipment, then it is a virtual collocation arrangement. Id.

c. Position of Qwest

1. Interconnection

20. On March 25, 1999, Qwest witness Michael J. Weidenbach provided Direct Testimony indicating that Qwest specifies its legal obligation to provide interconnection in the proposed SGAT (Section 7.0) and the various interconnection agreements between Qwest and CLECs in Arizona. Qwest 2-1 at p.5. On June 30, 2000, Qwest witness Thomas R. Freeberg provided supplemental testimony to provide current evidence that Qwest continues to satisfy the requirements for interconnection trunking and collocation. Qwest 2-2 at p. 1. Qwest states that it satisfies the requirement to provide interconnection within their networks at any technically feasible point by providing CLECs with interconnection at the six minimum points of interconnection defined by the FCC. Qwest 2-1 at p. 6.

21. As of May 1, 2000, Qwest was providing interconnection trunking to 16 Arizona facilities based CLECs, on more than 500 local interconnection trunk groups, with almost 82,000 member (trunks). Qwest 2-2 at p. 5. These trunks were terminated on over 70 Qwest wire centers in Arizona. Id.

22. Qwest provides several alternative arrangements that facilitate the interconnection of a CLEC network with Qwest's network. Qwest 2-1 at p. 7. Four standard interconnection arrangements are (1) collocation, (2) mid-span meet, (3) entrance facility and (4) interLocal Calling Area (LCA) facility. Qwest 2-2 at p.6.

23. Qwest provides both physical and virtual collocation so that CLECs may place their equipment on Qwest central office floor space for purposes of connecting to the six points of interconnection established by the FCC. Qwest 2-1 at p. 8. Qwest provides a mid-span meet interconnection arrangement whereby Qwest and a CLEC extend facilities from their respective networks to a common agreed upon point where their facilities meet. Id. Qwest also provides an entrance facility interconnection arrangement, which is comprised, of a Qwest provided transport system that extends from the CLEC's central office to the Qwest serving wire center. Qwest 2-1 at p. 9. Finally, when a CLEC locates its switch outside a Qwest local calling area with which it seeks to interconnect, an inter LCA facility can be purchased from Qwest to extend the carriers' point of interface to the distant local calling area. Qwest 2-2 at p. 6. Alternatively, the CLEC may construct a facility from its switch into the next Qwest local calling area it wishes to serve. Id.

24. In addition to the standard interconnection arrangements in the proposed SGAT, a CLEC may request additional points of interconnection through the Bona Fide Request (BFR) process. Qwest 2-1 at p. 10. Qwest's proposed SGAT Section 17.0 states:

> 17.0 Any request for Interconnection . . . that is not already available as described herein shall be treated as a Bona Fide Request (BFR). Qwest shall use the BFR process to determine the terms and timetable for providing the requested interconnection . . . if

available, and the technical feasibility of new/different points of interconnection. Qwest will administer the BFR Process in a non-discriminatory manner. Qwest 2-1 at p. 10-11.

25. In 1998, Qwest received four BFR requests in Arizona, two of which were fulfilled, one was denied and the customer was offered a tariffed alternative, and one was withdrawn by the customer. Qwest 2-1 at p. 11.

26. Qwest is committed to provide CLECs with interconnection that is equal in quality to that which Qwest provides itself, its subsidiaries and its affiliates as the proposed SGAT states:

> 7.1.1.1 Qwest will provide to CLEC interconnection at least in quality to that provided to itself, to any subsidiary, affiliate, or any other party to which it provides interconnection. Qwest 2-1 at p. 11.

27. Qwest has adopted industry standards for blocking and transmission quality in designing its interconnection facilities. Qwest 2-1 at p. 11. Qwest has also implemented procedures to minimize trunk blocking by proactively monitoring interconnection traffic. Qwest 2-1 at p. 12. Qwest has collected detailed performance data under the following interconnection measures: metrics on trunk provisioning, trunk repair and network blocking. Qwest 2-2 at p. 13. These performance measurements track how well Qwest provides interconnection trunking as compared to the interoffice trunks Qwest provides itself. Id. These measurements help to ensure that CLECs receive interconnection "at least equal in quality". Id.

28. Qwest and CLEC end offices route originating calls to other end offices by two means – direct and tandem routing. Qwest 2-2 at p. 15. Direct routing allows one end office to transport traffic directly to another end office over a single uninterrupted interoffice facility. Id. By contrast, tandem routing allows a CLEC to send, on a single trunk group, calls destined for many end offices to a tandem switch. Id. The tandem switch then relays each call to the appropriate "common" trunk group associated with a terminating end office. Id. A "common" group concurrently carries calls originated by the retail customers of Qwest and a CLEC. Id.

29. Qwest measures trunk blockage (1) on interconnection final trunk groups that connect CLEC end offices with Qwest tandems, and (2) on interconnection final trunk groups that directly connect CLEC end offices with Qwest end offices. Qwest 2-2 at p. 15. For comparison, to ensure it provides interconnection "at least equal in quality," Qwest also measures blocking on its traditional interoffice trunk groups. Id. Thus, Qwest measures trunk blockage on (1) interoffice final trunk groups that connect Qwest end offices with Qwest tandems, and (2) interoffice final trunk groups that connect one Qwest end office to another Qwest end office. Id. These four performance measures allow a direct comparison between the blockage on interoffice (Qwest) direct trunks as compared to interconnection (CLEC) direct trunks as well as a second comparison of blockage experienced on interoffice tandem trunks as compared to interconnection trunks. Id. Blockage on tandem trunks shows that CLECs have experienced fewer blockages on such trunks than has Qwest during three of the first four months of 2000. Qwest 2-2 at p. 16.

30. Qwest also measures blockage on direct end-office trunks. Qwest 2-2 at p. 16. Although blockage on tandem trunks uniformly met the Commission's performance benchmark, blockage on end office trunks fell outside of statistical norms in the first two months of the year. Id. Thus, this it is appropriate for the Commission to conduct additional analysis on this measure. Id. Qwest asserts that, when fully analyzed, the data supports Qwest's position that it is providing CLEC's with nondiscriminatory access to interconnection facilities. Qwest 2-2 at p. 16.

31. For interconnection trunks provided to CLECs, Qwest measures several aspects of the provisioning process. Qwest 2-2 at p. 17. Specifically, Qwest tracks the average installation interval (OP-4), the percentage of time it installs a trunk on or before the due date ("commitments met") (OP-3), and for installations that were not completed on time, the average number of days the trunk was installed later than the originally scheduled due date (OP-6). Id. For each of the above interconnection trunk indicators, Qwest also collects comparable data for its own interoffice trunks to obtain comparable evidence for the internal Qwest network. Id. With this evidence, the Commission will be able to directly compare trunk installation/provisioning for CLECs and Qwest. Id.

32. Qwest's actual performance data on interconnection trunk installation is universally positive. Qwest 2-2 at p. 17. The PIDs state that Qwest meets its trunk installation obligations if it provides such installation as well as or better than retail parity. Id. For each of the interconnection trunk installation measures, Qwest consistently provided CLECs with better, more timely trunk installation than it did for its own retail organization. Id.

33. Qwest also tracks several aspects of the trunk repair process. Qwest 2-2 at p. 19. Specifically, Qwest tracks the quality of ordering and installation of services, focusing on the extent new order installation were free of trouble reports for thirty calendar days following installation and the percentage of new service installations that experienced a trouble report during the period from. the installation date to the date the order posted complete. Id. Additionally, Qwest tracks the percentage of troubles cleared within four hours (MR-5), the mean time to restore trunks that were experiencing trouble (MR-6), the number of times a repaired trunk must be repaired again ("Repair Repeat Report Rate") (MR-7) and the percentage of the total number of trunks that experience a problem ("Trouble Report Rate") (MR-8). Id.

34. Installation trouble reports are a means of assessing installation quality. Qwest 2-2 at p. 19. Qwest provides a comparable measure for trouble reports on trunks within the Qwest network. Id. Qwest measures the percentage of interconnection trunk trouble reports that were cleared in less than four hours. Qwest 2-2 at p. 19. Unlike the previous indicator that addressed newly installed trunks, this measure addresses all trouble reports on interconnection trunks, regardless of how recently the trunks were installed. Id. To capture the overall interconnection trunk repair experience, Qwest also measures the average time it takes to restore an interconnection trunk. Qwest 2-2 at p. 19. This can be compared to the average time it takes Qwest to restore interoffice trunks within its network. Id. These results demonstrate that Qwest cleared CLEC trouble reports on interconnection trunks in approximately 6 to 8 hours in each of the last four months. Qwest 2-2 at p. 20. Thus, CLECs can count on Qwest repairing their

interconnection trunks on the same day that the trouble is reported. Id. For the two months where comparable data exists, Qwest cleared troubles for interconnection trunks more quickly than on trunks within Qwest 's network. Id. These results further demonstrate that Qwest provided interconnection repair to CLECs that was "at least equal to" the quality the repair it provided itself. Id.

35. Qwest offers interconnection in accordance with the rates, terms and conditions of its interconnection agreements and the proposed SGAT. Qwest 2-1 at p. 14. SGAT Section 7.2.3 describes the rates for interconnection. Id. Rates that apply to interconnection include Entrance Facilities, Direct Trunked Transport, Tandem Switched Transport, Multiplexing, End Office Call Termination, Expedite Charge (LIS Trunks), and Transit Traffic. Id.

36. SGAT Section 7.2.2.8 defines the responsibilities of both parties regarding the interconnection forecasting process, including: the forecast forms and format, required information, forecast cycle, Joint Planning meetings, Qwest Trunk Group Servicing Request (TGSR) process, and trunk group resizing guidelines. Qwest 2-2 at p. 9. To assist CLECs with ordering and obtaining interconnection, Qwest offers Local Interconnection Service (LIS) training and facility tours and provides to CLECs its Interconnection and Resale Resource Guide. Qwest 2-1 at p. 15. Additionally, Qwest Account Teams meet individually with CLEC representatives to ascertain CLEC specific requirements. Id.

2. Collocation

37. Qwest witness Michael J. Weidenbach also provided Direct Testimony on March 25, 1999, indicating that Qwest satisfies the requirements to provide collocation to CLECs. On June 30, 2000, Qwest witness Thomas R. Freeberg provided supplemental testimony regarding collocation. In Arizona, Qwest is now providing 225 units of physical collocation and 32 units of virtual collocation to 25 CLECs in 61 central office buildings under existing collocation agreements. Qwest 2-2 at p. 22. Qwest provided updated figures in its April 23, 2001 Notice of Errata Filing to its Brief regarding disputed workshop #2 issues and indicated that as of December 31, 2000, Qwest had 455 collocations in 80 different central offices serving 94.2% or over 2.739 million of the access lines in Qwest's territory in Arizona. Qwest's April 23, 2001 Errata Brief at p. 2.

38. As discussed above, there are five forms of physical collocation – caged, shared, cageless, InterConnection Distribution Frame (ICDF) collocation and Common Area Splitter collocation. Qwest 2-2 at p. 22. There are also two forms of virtual collocation – standard and adjacent. Qwest 2-2 at p. 23. Both virtual and physical collocation are available to CLECs throughout Arizona. Qwest 2-2 at p. 28. Section 8.1.1 of the SGAT describes the standard collocation arrangements offered by Qwest. Id. In addition, CLECs can obtain nonstandard collocation arrangements through the Bona Fide Request (BFR) process. Id. Through this process, CLECs may obtain collocation outside of the central office or through any collocation method used by another incumbent LECs or mandated by the Arizona Commission. Id. Section 8 of the SGAT includes the collocation terms and conditions, rate elements, descriptions and arrangements, and the ordering process offered by Qwest. Qwest 2-2 at p. 27.

39. Qwest has implemented policies and procedures that comply with all of the FCC's currently effective rules. Qwest 2-2 at p. 27. Qwest requires CLECs' collocated equipment to meet only safety and earthquake requirements that Qwest imposes on its own equipment. Qwest 2-2 at p. 28. SGAT Section 8.2.2.5 only requires that a CLECs collocated equipment comply with the Telcordia Network Equipment System (NEBS) Level 1 generic requirements TR-NWT-000063 (with the exception of earthquake bracing requirements for cageless physical collocation installations included in NEBS Levels 2 and 3, depending on the location of the earthquake faults). Id. In addition, other Qwest wire center environmental and transmission standards, and any statutory requirements (local, state or federal). Id. This is expressly permitted by the FCC. Id.

40. Consistent with the FCC rules, Qwest allows CLECs to collocate equipment that is necessary for interconnection or access to unbundled network elements (UNEs), regardless of whether such equipment performs a switching function, provides enhanced services capabilities, or offers other functions. Qwest 2-2 at p. 28-29. SGAT Section 8.2.1.2 contains only one limitation on the type of collocated equipment -- CLECs may not collocate equipment that is not necessary for either access to UNEs or for interconnection, such as equipment used exclusively for switching or for enhanced services. Id. The D. C. Circuit Court of Appeals recently interpreted the FCC rules as expressly authorizing this limitation. Id.

41. If a collocation request is denied due to lack of space, SGAT Section 8.2.1.9 states that upon CLEC request, Qwest will provide the CLEC with a report containing: available collocation space in a particular Qwest premises; the number of collocators; any modifications in the use of the space since the last report; and action that Qwest is taking to make additional space available for collocation. Qwest 2-2 at p. 29.

42. Similarly, SGAT Section 8.2.1.11 states that, upon request by a CLEC, Qwest will allow a CLEC's representatives to tour the entire wire center premises escorted by Qwest personnel, within ten days of the denial of collocation space. Qwest 2-2 at p. 29. Such tours are without charge to the CLEC. Id. If, after the tour of the premises, Qwest and the CLEC disagree about whether space limitations at the wire center make collocation impractical, Qwest and the CLEC may present their arguments to the Commission. Id. Again, these principles adhere directly to FCC rules. Id.

43. As required by the FCC, Qwest also maintains a publicly available document, posted for viewing on the Internet, indicating all premises that are known to be full. Qwest 2-2 at p. 30. Qwest updates this document within ten days of the date when it learns that a premises is out of physical space for collocation. Id. The Internet address is:

http://www.uswest.com/carrier/bulletins/collocation-bulletins/colosum599.html.

44. If Qwest denies a request for collocation due to lack of space, SGAT Section 8.2.1.14 states that a CLEC may request that Qwest remove obsolete, unused equipment, in order to facilitate the creation of additional collocation space within a central office. Qwest 2-2 at p. 30. This adheres directly to FCC rules. Id. Qwest also proactively reviews central office space for obsolete or unused equipment prior to collocation denial. Id.

45. Finally, Qwest provides CLECs with the same network connections as Qwest uses to provision services to its own retail customers. Qwest 2-2 at p. 30. CLEC terminations share frame space with Qwest terminations without a requirement to also traverse an intermediate device, such as an ICDF or SPOT (Single Point of Termination) frame. Id.

46. Qwest processes for collocation are fully operational as Qwest centers that coordinate the fulfillment of "collocation" requests support multiple states and trained personnel are in place to meet demand for collocation in Arizona. Qwest 2-1 at p. 24. SGAT Section 8.4 includes the specifics concerning the collocation ordering process and intervals. Qwest 2-2 at p. 32.

47. Qwest offers collocation on a first-come, first-served basis. Qwest 2-2 at p. 33. If a request for collocation is denied due to lack of space, that CLEC will be offered a number of alternatives. Alternative collocation options include: (1) a lesser amount of space that is determined to be available in relation to the original request; (2) a cageless physical collocation (bay-at-a-time); or (3) virtual collocation. Id. A CLEC may also request space reclamation such as removal of non-working equipment or the moving of working circuits to other equipment for the purpose of providing additional collocation space or conditioning or reconditioning of space for the placement of equipment. Id.

48. Qwest provides performance measures for collocation that measures the average time it takes to provide CLECs with feasibility studies, quotes and installations. Qwest 2-2 at p. 34. Qwest also tracks the percentage of feasibility studies, quotes, and installations that it completes on or before the scheduled due date. Id.

49. SGAT Section 8.4.3.1 requires Qwest to perform collocation feasibility studies within ten days. Qwest 2-2 at p. 34. Qwest's actual performance in providing collocation feasibility is universally positive. Qwest 2-2 at p. 35. For each of the collocation feasibility measures, Qwest consistently met or exceeded the performance benchmarks set by the Commission. Id.

50. The standard Qwest interval for delivering CLECs with a collocation quote is twenty-five calendar days. Qwest 2-2 at p. 35. Qwest's actual performance in providing collocation quotes is also positive. Qwest 2-2 at p. 36. For each of the collocation quote measures, Qwest routinely met or exceeded the performance benchmarks set by the Commission. Id.

51. The last component of collocation is installation of the collocation arrangement. Qwest 2-2 at p. 36. While there are exceptions, the standard Qwest interval for physical and virtual collocation installation is ninety calendar days. Id. Consistent with collocation feasibility and quotes, Qwest's actual performance in providing collocation installation is also positive. Qwest 2-2 at p. 37. For each of the collocation installation measures, Qwest routinely met or exceeded the performance benchmarks set by the Commission. Id.

52. These results provide compelling evidence that Qwest is providing collocation to CLECs in a timely manner and in quantities that provide CLECs with a reasonable opportunity to compete. Qwest 2-2 at p. 38.

d. Competitor's Position

53. In their July 22, 1999, preliminary Statements of Position on Qwest's compliance with all Checklist Items, AT&T stated that Qwest does not comply with the requirements of Checklist Item No. 1 because it does not allow interconnection at any technically feasible point. AT&T Ex. 1 at p. 2. Qwest has also refused to allow interconnection at its access tandems, even though such interconnection is technically feasible and may be more efficient than other forms of interconnection. Id. Qwest has also not proven that it is providing interconnection at a level that provides to itself or to other parties. AT&T Ex. 1 at p. 2. Qwest has failed to produce key performance measurement results data for the performance it provides to itself for interoffice transport circuits (i.e., average installation interval, mean time to repair, percent installation commitments met). Id. Qwest has produced evidence that shows that it is not providing interconnection to CLECs that is at least equal in quality to that which it provides to itself. AT&T Ex. 1 at p. 3. Qwest has taken significantly longer to provision interconnection trunks for CLECs than it has to provision switched access trunks for long distance providers. Id. Also, Qwest has produced evidence that shows CLECs are experiencing lower call completion rates and higher blocking rates than exist in Qwest's own network. Id. AT&T also stated that there are a number of problems with the time and manner in which Qwest offers collocation. AT&T Ex. 1 at p. 3. Qwest, contrary to the requirements of the FCC, will not allow the collocation of Remote Switching Units (RSUs) and other types of equipment that can be used for interconnection and other purposes. Id. Qwest has also refused to offer collocation in all of the premises required by state and federal law. Id. Qwest also refuses to allow CLECs to sublet space in Qwest's collocation areas and will not allow CLECs to cross connect between each other. Id. In addition, the time required to obtain collocation space from Qwest is too long and does not provide an efficient competitor with a meaningful opportunity to compete. Id. Qwest frequently fails to meet its commitments in responding to collocation feasibility studies, collocation quotations and collocation installations. Id. Qwest has also imposed upon CLECs excessive and non-cost based, non-recurring charges for collocation. AT&T Ex. 1 at p. 4. Qwest requires that many of the collocation charges be individually negotiated, increasing the time required for a new entrant to obtain collocation facilities. Id.

54. Other CLECs filing comments on July 22, 1999, included Sprint, MCIW, Cox, NEXTLINK Arizona, L.L.C ("NEXTLINK"), ELI, e-spire, and Rhythms. COX stated that Qwest is not in compliance with this Checklist Item. Cox has repeatedly referred complaints to Qwest concerning lack of facilities for interconnection trunking from the Cox collocation space at the Phoenix main central office to the Qwest network. This lack of facilities meant that Qwest provided intervals of six to nine weeks to add to existing trunk groups or install new end office trunk groups. Also, Qwest could not support additional tandem trunking at the beginning of 1999 due to a lack of switch ports and failed to respond in a timely manner to Cox's requests for installation of end office trunking.

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55. ELI joins in the position statements filed by the other CLECs regarding Checklist Item 1. Specifically, ELI stated that Qwest has not provided the necessary forecasts and forecast information that ELI needs for interconnection trunking. Second, ELI stated that Qwest is discriminating against ELI in the provisioning of interconnection trunks by provisioning others more quickly. Third, there have been high levels of blocking on calls between ELI customers and Qwest customers due to (among other things) Qwest's inadequate preparation for interconnection. Fourth, Qwest policies have imposed inefficient interconnection configurations, which caused delays and additional expense.

56. ELI went on to state that Qwest is requiring unnecessary intermediate frames between CLEC facilities and Qwest facilities. Also, Qwest has required an unnecessary fiber splice and cable vault for CLEC fibers. Finally, Qwest does not meet many of the new requirements set forth in the FCC order on collocation.

57. e-spire stated that Qwest does not comply with Checklist Item 1 as interconnection has been neither timely or adequate. As an example, e-spire stated that Qwest refused to provide interconnection for frame relay services, forcing e-spire to arbitrate each and every issue related to frame relay interconnection, regardless of controlling authority in the Telecommunications Act and FCC orders that requires such interconnection. Also, Qwest is not meeting its obligations under the interconnection agreements negotiated/arbitrated pursuant to Sections 251 and 252 of the Telecommunications Act. E-spire cited another example where they ordered interconnecting direct trunk groups between several Qwest end offices and e-spire switching facilities for the purpose of mutually exchanging traffic. E-spire states that before the lines were tested and made operational, Qwest began to route calls originating at the Qwest end office to non-operational trunks.

58. MCIW, in its comments, stated that Qwest did not comply with the requirements of Checklist Item 1 since it does not allow interconnection at any technically feasible point. Qwest does not provision its own local service in the same manner it requires CLECs to provision local service. While Qwest may use intermediate frames to provide services to its end users, it requires CLECs to use an additional frame, which adds additional points of failure for each connection and facility used to connect to and from the frame.

59. MCIW also stated that Qwest has failed to prove that it is providing interconnection services to MCIW affiliates at a level of quality at least equal to the level that it provides to itself. Finally, MCIW stated that Qwest has also failed to produce key performance measurement results data for the performance it provides to itself for interoffice transport circuits.

60. NEXTLINK stated that Qwest does not comply with Checklist Item 1 since it does not allow interconnection at any technically feasible point. Instead, Qwest requires that interconnection be provisioned through some form of intermediate distribution frame (SPOT frame or ICDF frame) between a CLEC's collocated facilities and Qwest's facilities. NEXTLINK provided as an example where Qwest refused its request to connect DS-1s to DS-3s in end offices where NEXTLINK was not collocated. Qwest, in essence, was not even

complying with its own alleged offer to allow interconnection of network facilities at the SPOT or ICDF frame.

61. NEXTLINK also stated that Qwest has not proven that it is providing interconnection at a level of quality at least equal to the level that it provides to itself. Qwest has failed to produce key performance measurement results data for the performance it provides to itself for interoffice transport circuits.

62. NEXTLINK also stated that Qwest has produced evidence that shows that it is not providing interconnection to CLECs that is at least equal in quality to that which it provides to itself. Qwest has produced evidence that shows CLECs are experiencing lower call completion rates and higher blocking rates than exist in Qwest's own network.

63. Finally, there are also a number of problems with the time and manner in which Qwest offers collocation as Qwest fails to provide predictable installation intervals or cost-based pricing for collocation.

64. Rhythms shares AT&T's concerns about the unacceptable timeliness and manner in which Qwest offers collocation. Qwest's collocation delays and pricing significantly impede Rhythms' ability to enter the Arizona local service marketplace. The inability to physically collocate in just a single central office that Rhythms has targeted can and will significantly impact Rhythms' entire deployment design. For effective competition to occur in local services, strict attention must be paid to Qwest's collocation availability policies.

65. Rhythms went on to state that Qwest has routinely delayed the requesting CLEC the opportunity to perform a walk through of the central office in question until a state regulatory commission becomes involved. Qwest generally refuses to give a firm committed timeline for its intentions to build or remedy the lack of space within a given central office. Qwest also fails to meet its committed intervals for provisioning physical caged and cageless collocation space to Rhythms, effectively impeding the ability of Rhythms to provide DSL services in a timely fashion in competition with Qwest's retail DSL services. Additionally, Qwest has repeatedly failed to provide collocation within the 160-day interval, as specified in Section 7.4 of the parties' interconnection agreements in Arizona, Colorado, Minnesota, Oregon and Washington. Rhythms declared that in Colorado, the only state where Rhythms has ever received collocation delivery within the overall interval, Qwest has still missed the turnover dates for 86% of the central offices where Rhythms requested collocation.

66. In Sprint's Statement of Position, it claimed that Qwest fails to provide interconnection at parity with that which it supplies itself. Qwest refuses to supply Sprint with network information to facilitate Sprint's ordering of interconnection trunks and without that information, Sprint cannot identify what interconnection trunks are available to it. This makes the purchase of trunks difficult, if not impossible.

67. Sprint also stated that Qwest claims to offer interconnection through entrance facilities. However, Sprint's experience is that it has been an ongoing ordeal for it to order

entrance facilities from Qwest as Sprint has received no cooperation from Qwest in determining what entrance facilities Qwest is offering.

68. AT&T, MCIW, Rhythms and ELI filed additional comments on Checklist Item 1 on August 3, 2000.

1. Interconnection

69. In its Comments filed August 3, 2000, AT&T stated it had numerous concerns relating to language contained in Qwest's 4/7/2000 Second Revised Arizona SGAT which will be discussed in detail below. AT&T's comments regarding interconnection stated that Qwest is not providing interconnection at any technically feasible point that is at least equal in quality to that it provides itself or affiliates on terms and conditions that are just, reasonable and nondiscriminatory. AT&T 2-1 at p. 4. With regard to collocation, AT&T's experience shows that Qwest is not in compliance with its obligations to provide a process and procedure that is just, reasonable and nondiscriminatory. Id. AT&T went on to state that it has three areas of concern described as follows: 1) Qwest is not allowing technically feasible interconnection at all of its tandem switches. AT&T 2-1 at p. 4-5. This alone is causing AT&T, and probably other CLECs, to delay market entry because of the additional expense associated with Qwest's refusal to interconnect at all tandems. Id. 2) Qwest has failed to maintain sufficient capacity in many parts of its network such that it can timely and reliably meet CLEC demand for interconnection trunks. AT&T 2-1 at p. 5. Again, the insufficient capacity is causing delay, if not outright denial, of some market entry. Id. 3) Qwest has effectively prevented CLECs from collocating Remote Switching Modules, which are the most efficient means of provisioning interconnection and collocation in certain areas. AT&T 2-1 at p. 5.

70. AT&T cited numerous concerns regarding Qwest's SGAT on its definitions section which pertain to interconnection. Specifically, the definitions section of the SGAT, Section 4.0 which have definitions that do not comply with the law. AT&T 2-1 at p. 7. Qwest's definition of Tandem Office Switch requires that the CLEC switch actually serve the *same* geographic area as the Qwest tandem switch under consideration. Id. The term "same" should be replaced with the language that is consistent with the FCC rule that requires only that the CLEC switch serve a geographic area *comparable to the area served by* the incumbent's tandem office switch. Id. This definition is also deficient in that the definition of "access tandem" is written so as to prohibit interconnection with such switch for the exchange of local traffic. CLECs must be permitted to interconnect with Qwest access tandems for the exchange of local traffic. Id. By demanding that CLECs replicate Qwest's tandem architecture, with its hundreds of end office switches, or pay a premium for interconnecting each AT&T switch to a Qwest tandem, which are generally deep inside the network, Qwest is creating a barrier to competition that burdens the use and deployment of more modern and efficient networks in favor of its antiquated systems. AT&T 2-1 at p. 8-9.

71. SGAT Section 4.26 defines the Interconnection & Resale Resource Guide (IRRG). The IRRG is a document under the sole control of Qwest that may be changed by Qwest at will, and without notice. AT&T 2-1 at p. 9. This document describes, among other things, the processes and procedures for interconnection, collocation and resale. Id. Until the

IRRG has gone through some process of review and approval, CLECs should not be held to its requirements and must remain free to change the IRRG requirements where necessary. Id. AT&T suggests that the Commission require Qwest to establish which current version of the IRRG is to be considered in this proceeding, and then create some review and notice mechanism for its subsequent change. AT&T 2-1 at p. 10.

72. SGAT Section 4.33 defines Local Interconnection Service (LIS) Trunking which Qwest defines as a finished service. AT&T 2-1 at p. 10. As a finished service, Qwest controls the features and functionalities of that service. Id. The SGAT provides only very high level statements regarding LIS trunks while the details are left to other documents. Id. Furthermore, in Qwest's definition of LIS, it limits interconnection to Qwest end offices and local tandems and has excluded interconnection at access tandems. AT&T 2-1 at p. 11. However, interconnection is technically feasible at access tandems as the FCC requires that incumbents allow interconnection at "any technically feasible point within the incumbent LEC's network … ." 47 CFR §51.305(a)(2). AT&T 2-1 at p. 11. Therefore, Qwest should modify its definition to include interconnection at the access tandems as well as the end offices and local tandems. Id.

73. SGAT Section 4.63 Qwest provides its definition of Wire Center. The last sentence of the definition of wire center should be deleted. AT&T 2-1 at p. 11. By referencing FCC Docket No. 91-141, Qwest seeks to limit collocation to the areas called for in that Docket. Id. This is inappropriate; collocation must be permitted at the incumbent's "premises." 47 U.S.C. §251(c)(6); 47 CFR §51.321(b)(1). AT&T 2-1 at p. 12.

74. AT&T had numerous concerns over SGAT language in Section 7.0 regarding Qwest's interconnection provisions. SGAT Section 7.1.1 should be modified to more closely track Qwest's legal obligation regarding interconnection at access tandems only for the exchange of intraLATA toll or switched access traffic. AT&T 2-1 at p. 13. CLECs must be allowed tom interconnect with Qwest access tandems for the exchange of local traffic. Id.

75. Section 7.1.1.1 recites a *portion* of Qwest's legal obligation leaving one to guess as to Qwest's intentions with respect to the remainder of its obligation and should be modified to either include that it also will provide interconnection under rates, terms and conditions that are just, reasonable and nondiscriminatory or it should put such a statement in a new Section. AT&T 2-1 at p. 14.

76. AT&T also stated that Section 7.1.2, pertaining to methods of interconnection, contain several requirements that defy Qwest's legal obligations and should be modified. AT&T 2-1 at p. 14-16. First, Qwest is still requiring a point of interconnection (POI) within each local calling area. Id. Section 251(c)(2) clearly mandates that CLECs must be allowed to interconnect at any technically feasible point which means that CLECs may choose to interconnect at a single POI per LATA; they are not required to deploy multiple POIs per local calling area because Qwest demands it. Id. Qwest's requirement that AT&T and other CLECs employ one POI per local calling area has created an enormous, expensive barrier to competition. AT&T 2-1 at p. 15. Second, the language is far too restrictive because it purports to identify the only interconnection methods open to negotiation which again limit its obligation to provide interconnection at any technically feasible point at the choice of the requesting carrier. AT&T 2-1 at p. 15-16.

77. Section 7.1.2.1, which introduces Qwest's plan to employ "Entrance Facilities" as interconnection points, should be modified. AT&T 2-1 at p. 17-18. The FCC determined that interconnection must be priced under cost-based pricing methodologies and thus the appropriate element for acquiring interconnection trunks is Dedicated Transport not Entrance Facilities. Id. Additionally, Qwest's definition of Entrance Facilities is far too restrictive again allowing Qwest to dictate interconnection methods that unnecessarily increase costs to CLECs and limit their options. Id.

78. Section 7.1.2.2 contains language related to CLECs paying for Interconnection Tie Pairs (ITP). The sections pertaining to ITP within section 7.1.2.2 should be deleted. AT&T 2-1 at p. 19. Interconnection Tie Pairs are literally the wires in the Qwest central office that connect CLEC facilities to Qwest facilities for interconnection. AT&T 2-1 at p. 18. Because it is Qwest's obligation to take the traffic from the CLECs' collocation space, it is unjust and unreasonable to charge the CLEC for ITP rate elements. AT&T 2-1 at p. 19. In this instance, the physical point of interconnection is the collocated equipment itself, and thus, Qwest is responsible for taking the traffic the few remaining feet to the Qwest switch. Id. Just as AT&T and other CLECs do not charge Qwest for taking such traffic to their switches, Qwest should not charge them for similar connectivity.

79. AT&T stated that Section 7.1.2.3 relating to Qwest's requirement of interconnection through mid-span meets be contained within Qwest wire centers boundaries should be modified. Requiring mid-span meet POIs to be within Qwest's wire center boundaries is unreasonable because, from a technical standpoint, it requires CLECs to deploy unnecessary trunks to every Qwest wire center. AT&T 2-1 at p. 19. This requirement is just another attempt to evade the single POI per LATA requirement, and, from an engineering perspective, the requirement interjects inefficiencies into the interconnection method. AT&T 2-1 at p. 20.

80. Section 7.1.2.4 describes Qwest's new hub interconnection arrangements (also known as LIS Inter Local Calling Area (LCA) Facility) should be replaced. AT&T 2-1 at p. 20-21. AT&T states that CLECs should not be paying private line rates when using those facilities to provide local service. AT&T 2-1 at p. 21. Furthermore, Qwest restricts the use of the "LCA" or hub facilities to interconnection only resulting in CLECs ordering additional trunking for access to UNEs. Id.

81. AT&T recommends modifying Sections 7.2.2.1.2.2 and 7.2.2.1.3 where Qwest requires the CLEC to provide transport to Qwest. AT&T 2-1 at p. 21-22. Imposing upon the CLEC an obligation to sell transport to Qwest is the same as imposing a piece of the incumbent's interconnection obligation on the CLEC. Id. Neither the Federal Act nor the FCC rules contemplate such a requirement and it is inappropriate for Qwest to demand it here. Id. Section 7.2.2.1.3 requires that the CLEC employ its spare collocation capacity for direct trunk transport to its switch. AT&T 2-1 at p. 22. The SGAT makes absolutely no provision for the CLEC to recover its costs of direct trunking through its collocation space. AT&T 2-1 at p. 23. Moreover, a CLEC should not be required by Qwest to use CLEC's collocation space in any particular manner. Id.

82. AT&T recommends modification of Section 7.2.2.6.1 as it lists the options for the exchange of SS7 out-band signaling for the purpose of interconnection of local traffic. AT&T 2-1 at p. 23-25. One of those options requires the CLEC to order connectivity from an access tariff that is more expensive and inappropriate for purposes of local interconnection and the exchange of EAS/local traffic. AT&T 2-1 at p. 24. Connectivity with the Qwest Signaling Transfer Points (STPs) should be available via dedicated transport. Id. Qwest should be providing dedicated transport to its STPs at cost-based prices and it should further convert trunks ordered to STPs from tariffed access service to dedicated transport. Id.

83. Section 7.2.2.6.2 offers Clear Channel Capability (referred to as 64CCC) which allows 64 Kbps ISDN traffic to route over the switch and transport facilities. AT&T 2-1 at p. 25. While some of Qwest's older tandem switches do not allow 64CCC, Qwest can avoid the use of the older transmission facilities and provide 64CCC to its customers even though some traffic may go through older tandems. Id. This is done through an overlay network where special routing is specifically provided for the 64CCC. Id. Qwest should modify this section to reflect where available, Qwest has a legal obligation to provide the CLECs with the same efficient use of 64CCC traffic. AT&T 2-1 at p. 26.

84. Section 7.2.2.8.3 regarding LIS Forecasting should be modified to reflect that Qwest, not the CLEC, should bear the burden of Qwest switch planning. AT&T 2-1 at p. 26.

85. Section 7.2.2.8.4 discusses the responsibility of each party to build facilities based upon the forecast of the other. AT&T 2-1 at p. 27. AT&T requests modification of this section as Qwest is attempting to thrust upon CLECs incumbent interconnection obligations. Id. It is AT&T's experience that Qwest has failed to employ those forecasts such that it has the necessary capacity when AT&T places its orders and that, despite the forecasting, the needed switch modules, facilities, central office equipment and T-3 service is frequently not available causing delays in Qwest interconnection service delivery. AT&T 2-1 at p. 27.

86. AT&T states that Section 7.2.2.8.6 deals with disputed forecasts and should be modified. AT&T 2-1 at p. 28. AT&T claims that this provision gives Qwest the right to build to the lower of the disputed forecasts and is not advisable because Qwest currently cannot meet demand notwithstanding the provision of forecasts by CLECs and IXCs. Id.

87. Section 7.2.2.8.7 defines the information that each party will provide to the other in preparation for the joint planning meetings and should be modified. AT&T at p.28-29. Qwest should provide the CLEC with a detailed list of the spare capacity on all switches within the State and all the capacity of interoffice facilities ("IOF") in Qwest's network that may impact interconnection trunking. Id.

88. Section 7.2.2.8.9 describes the information Qwest makes available through its routing guide or interconnection database. AT&T 2-1 at p. 29. AT&T's experience in using Qwest's databases, in particular the LERG and ICONN, has revealed that Qwest infrequently updates the information in the databases such that the information is often incorrect and inaccurate. Id. Because of the errors AT&T has found in the LERG, Qwest has been asked to update its information in that database, however, it has been unwilling to do so. AT&T 2-3 at p.

Qwest should be required to update its information in the LERG at regular intervals, at least once per week. Id. Additionally, AT&T has found that the ICONN databases do not have information on any of the Qwest local tandems and end offices that subtend those tandems. AT&T 2-3 at p. 9. It also appears as though Qwest itself does not refer to the LERG when working with CLECs, which ultimately results in more work for the CLECs and more delay. AT&T 2-1 at p. 30. AT&T requests modification of this section to require Qwest to regularly update the information in the databases once weekly. Id.

89. Section 7.2.2.8.12, which provides for the care and handling of CLEC forecasts, should be modified to reflect greater protection of the CLECs forecasting information. AT&T 2-1 at p. 30.

90. Sections 7.2.2.8.13 and 7.2.2.8.14, which describe trunk under-utilization, should be modified. AT&T 2-1 at p. 31. There are several factors that may cause a CLEC to under-utilize or not augment trunks that appear to be fully utilized such as rapid or erratic growth of minutes, which may cause the CLEC to anticipate and provide for capacity problems in the future. Id. Where CLECs, such as AT&T, have experienced unpredictable and numerous held order problems created by Qwest when it lacks capacity, prudent network engineering planning would militate in favor of maintaining greater capacity than it otherwise might. Id.

91. Section 7.2.2.8.16 describes Qwest's unilateral right to assess construction charges on CLECs. AT&T 2-1 at p. 32. In this section, Qwest discusses what some extraordinary circumstances may include. Although some "extraordinary circumstances" are defined, apparently Qwest has the unilateral right to describe other phenomena as "extraordinary." AT&T 2-1 at p. 32. Furthermore, "extraordinary" circumstances should not include situations in which Qwest has exhausted its current facilities and refuses to construct new facilities to meet current demand. Id. AT&T requests this section be revised to reflect reality and place the burden of new Qwest facility construction on the owner of that facility, unless it can show that indeed, the CLEC is the sole cause of the new construction. AT&T 2-1 at p. 33.

92. Section 7.2.2.19 describes trunking requirements and should be modified, as it is far too vague to be useful to the CLECs. AT&T at p. 33.

93. AT&T recommends deletion of Section 7.2.2.9.3 and insertion of AT&T proposed language as the current language appears to be defying the Arizona law which allows CLECs to combine traffic types on the same trunk group with the use of percent local usage or PLU factors to identify the percentages of local and toll traffic carried on those trunks. AT&T 2-1 at p. 34.

94. Similar to Section 7.2.2.19, Section 7.2.2.9.6 also describes trunking requirements but here, Qwest places limitations on all termination of EAS/Local traffic, thereby creating inefficient use of the network where CLEC traffic is concerned. AT&T 2-1 at p. 34-35. AT&T requests modification of this section as Qwest's provision creates unnecessary expense and market entry delay for the CLEC because Qwest insists on dividing its tandems between "access and local" where CLEC traffic is concerned. Id. Again, Qwest's refusal to permit interconnection at its access tandems is contrary to the FCC and this Commission's requirement

to allow interconnection at any technically feasible point. 47 U.S.C.§ 25.(c)(2)(B). AT&T 2-1 at p. 35. AT&T's experience with this Qwest policy has caused AT&T to slow its market entry in certain areas. Id. AT&T is currently interconnected with Qwest at its access tandems for the exchange of local traffic in nine Qwest states. AT&T 2-3 at p. 9-10.

95. AT&T states that Section 7.2.2.9.7, which requires that CLECs exchange all EAS/local traffic only in Qwest local calling areas, be deleted in its entirety because it clearly violates the FCC's requirements allowing CLECs to choose their POI. AT&T 2-1 at p. 36. It is also discriminatory in that Qwest does not treat itself, affiliates and subsidiaries in this fashion. Id.

96. AT&T states that Section 7.2.2.9.9, which discusses a Host-Remote, should be deleted because it again limits interconnection to "local" tandems and it further refuses to allow CLECs to interconnect at the remote end office switch, a technically feasible point. AT&T 2-1 at p. 36.

97. AT&T recommends that Section 7.2.2.10.2.2 dealing with Testing, be modified. AT&T 2-1 at p. 37. The testing described in this section is beyond the normal "turn-up" testing. Id. Qwest demands that the CLEC always pay for such testing when requested by the CLEC. Id. However, this requirement ignores the fact that interconnection trunks are a shared resource for the mutual exchange of calls from both carriers and therefore, both carriers should bear an equal cost of any special testing required to maintain such trunks. Id.

98. AT&T recommends that Section 7.4.1 be examined as ordering interconnection reveals that it may not actually reflect the required interconnection information necessary for the Access Service Request form. AT&T 2-1 at p. 37. An examination of the differences in description between the Qwest SGAT and the ASR guide should be reconciled. Id.

99. Section 7.4.2 deals with ordering and should be modified by deleting the last sentence within this section. AT&T 2-1 at p. 38-39. Information that Qwest seeks on the "Routing Supplemental Form – Wireline" can and should be obtained by Qwest from the LERG and not need be completed by the CLECs. Id. Additionally, the referenced web site is out-of-date requiring CLECs to now hunt through the new site looking for this information. Id.

100. Section 7.4.4 also pertains to ordering (specifically, AT&T's concerns our over joint planned meetings) and should be modified. AT&T 2-1 at p. 39. Qwest should participate in these meetings with the intention of making a commitment. Id. AT&T experiences complete uncertainty with Qwest right up to the point where trunk orders are rejected since the rejections are frequently due to Qwest's lack of preparation during the trunk planning process. Id. Additionally, Qwest has refused to do the work necessary to make the documentation for trunk plans information that AT&T can rely on to submit ASRs to Qwest for interconnection trunking. AT&T 2-3 at p. 3.

101. Section 7.4.5 which deals with prohibiting CLECs interconnecting at the Qwest access tandems should be deleted in its entirety. AT&T 2-1 at p. 39-40.

102. AT&T also recommends deletion of Section 7.4.6. AT&T 2-1 at p. 40. This section allows Qwest to avoid meeting ordering intervals described elsewhere in the SGAT and by the TAG. Id.

103. Section 7.4.8 describes order cancellation and makes reference to "original service date". AT&T 2-1 at p. 40. AT&T requests that "original service date" should be defined for clarity. Id.

104. Finally, AT&T states that Section 7.5 on Jointly Supplied Access appears to attempt to modify or avoid agreements previously made between Qwest and CLECs for access. AT&T 2-1 at p. 40. The SGAT should not be a tool that Qwest can use to avoid its previous contractual obligations. Id.

105. In summary, AT&T's position is that Qwest does not comply with its obligations under Checklist item 1 – Interconnection. AT&T 2-1 at p. 41. AT&T state three examples of Qwest's noncompliance that warrant discussion: 1) its refusal to allow interconnection at technically feasible points; 2) its poor trunk ordering and provisioning service; and 3) its excessive call blocking problems. Id.

106. Regarding Qwest's refusal to allow interconnection at technically feasible points, Qwest is the only RBOC that has segregated its tandem switches into "local" tandems and "access" tandems. AT&T 2-1 at p. 41. Qwest has categorically refused to allow CLECs to interconnect at access tandem switches, requiring connectivity only at Qwest local tandems and end offices. AT&T 2-1 at p. 42. If Qwest allowed the CLEC to interconnect at the "access" tandem, there would be no need for the expense and delay of trunking to the Qwest end offices. Id. AT&T has been forced to delay market entry in several areas of Arizona for precisely these reasons even though AT&T is interconnecting at access tandems with Qwest in other Qwest states. AT&T 2-1 at p. 43. Segregation of local and toll tandem functionality has proven to be quite harmful to the CLECs' efficient interconnection and entry into the local market. AT&T 2-1 at p. 43. Additionally, Qwest's policy on access tandems is discriminatory against local traffic and local carriers. AT&T 2-1 at p. 44. Qwest has provided more robust trunking to the "access" tandems than to its "local" tandems. Id. Since CLECs are relegated to "local" tandems, CLEC calls receive the lesser grade of service. Id.

107. Regarding Qwest's poor trunk ordering and provisioning service, AT&T has experienced poor ordering and provisioning service in that Qwest has serious problems in delivering interconnection trunks within a reasonable time in some wire centers. AT&T 2-1 at p. 44. AT&T has numerous pending orders for interconnection trunks that Qwest has delayed filling because of its insufficient facilities supply. Id. AT&T has also had its pending orders placed on indefinite hold where Qwest has informed AT&T that there is no funding to build additional facilities. Id.

108. Regarding Qwest's excessive call blocking problems, approximately 95% of Qwest's traffic flows on thick trunk groups between Qwest's end offices. AT&T 2-1 at p. 50. This leaves only 5% of the traffic traveling on the tandem trunk groups that are subject to the blocking metrics. Id. In contrast, 25% of CLEC traffic travels over the tandem trunk groups. Id.

If a tandem trunk group is blocking 10% of calls to it, this blocking level will impact only 5% of Qwest's traffic while impacting 25% of the CLECs traffic. Id. The CLEC is more likely not to have a direct trunk than Qwest. In this case, the CLEC traffic experiences the full blocking rate of the tandem trunk. Id.

109. MCIW requests that the SGAT be expanded to include additional information to the CLECs on a regular basis regarding the joint planning process. MCIW 2-1 at p. 3. Additional information would include 1) information regarding Qwest End Office port exhaust; and 2) utilization on Common Tandem to End Office trunking. Id.

110. MCIW also expressed concerns that Qwest's product offering contains absolutely no type of route diversity. MCIW 2-1 at p.4. As a result, if there is any type of fiber cut, both Qwest and CLEC traffic would be impacted due to the lack of diversity. Id. This would negatively impact both CLEC customer traffic as well as Qwest customer attempting to terminate calls with CLEC customers. Id. MCIW has repeatedly requested Qwest to support route diversity but Qwest has refused even though MCIW believes that Qwest provides route diversity in portions of its network. Id.

111. MCIW believes Qwest's definition of interconnection in Section 7.1.1. is overly limiting, and that interconnection includes the exchange of all types of traffic and should be modified. MCIW 2-1 at p. 5. Also, MCIW requests Qwest to provide clarification concerning the statement "Local tandem to access tandem and access tandem to access tandem switch connections are not provided." MCIW 2-1 at p. 6. MCIW requests to know how it applies when a CLEC has a tandem switch which serves both local and long distance traffic, and desires that interconnection trunks be established between CLEC's tandem and Qwest's tandem. Id. If Qwest cannot properly clarify this statement, then the sentence should be stricken from Section 7.1.1, since interconnection trunks between CLEC's network and Qwest's network are clearly required for the exchange of traffic, regardless of whether CLEC's switches are Tandem Switches, End Office Switches, or some combination thereof. Id.

112. MCIW recommends a modification to Section 7.1.2 which requires CLECs to establish a Point of Interconnection ("POI") within each Qwest local calling area where the CLEC does business. MCIW 2-1 at p. 7. Qwest's requirement of a POI per local calling area serves to increase competitor's expenses by requiring CLECs to install more switches, preferably in each local calling area from Qwest's perspective, which not only increases CLEC expenses, but results in CLECs potentially replicating a network architecture that is not as efficient as that built by CLECs today using SONET ring architecture. Id. Additionally, this section outlines four methods of interconnection available to CLECs. MCIW 2-1 at p.8. This specific section should also be modified since MCIW believes that the list provided by Qwest should not be mutually exclusive, nor should Qwest be given the sole right to dictate the four methods of interconnection. Id.

113. Section 7.1.2.4 should be modified to clarify the interconnection option called "LIS InterLocal Calling Area (LCA) Facility"

114. MCIW expressed concerns over Sections 7.1.2.4.3 and 7.1.2.4.6. MCIW 2-1 at p. 9. Section 7.1.2.4.3 implies that the CLEC would be obligated to pay for this facility even if it is for a 2-way trunk that would carry Qwest's traffic; thereby providing Qwest a "free ride" for transport of calls made by Qwest customers to reach CLEC customers on a facility paid for by the CLEC. Id. Section 7.1.2.4.5 implies that Qwest will reduce the cost for the first 20 miles for Qwest's portion of the traffic but not for the mileage exceeding 20 miles; hence, the CLEC would be paying for a disproportionate amount of the traffic and Qwest would again receive a "free ride." Id. Qwest proposes in Section 7.1.2.4.4 and 7.1.2.4.6 that the rates charged to the CLEC would be pulled from the Private Line Transport Tariff, which are access rates. Id. These rates should instead be based on TELRIC methodology, which is required under the pricing rules established by the FCC for local interconnection. Id. Since these facilities are being used to provide *local* interconnection, they should be priced at TELRIC costs – not access rates. Id.

115. MCIW objects to Section 7.2.1.1 in that Qwest is asking that the parties charge each other based on Qwest's tariffs for InterLATA toll traffic. MCIW 2-1 at p. 10. MCIW believes this to be anti-competitive. Id.

116. MCIW stated it has concerns over Section 7.2.2.1.3 in which Qwest is requiring the CLEC to deliver direct end office traffic through the CLEC's collocation facility. MCIW 2-1 at p.10. This contradicts the Act, which allows CLECs to interconnect where technically feasible -- not where the ILEC demands. Id. Also, interconnecting at the CLEC's collocation places undue burden on the CLEC. Id.

117. MCIW requests clarification on Section 7.2.2.3.1 whereby Qwest removed IXCs from the list of parties for which Qwest will accept transit traffic originated by the CLEC. MCIW 2-1 at p. 11. MCIW believes that it is appropriate for Qwest to accept transit traffic originated by the CLEC for termination to an IXC. Id.

118. MCIW expressed concern over Section 7.2.2.8.2, entitled LIS Forecasting, in that while MCIW provides forecast information as requested, these forecasts do not guarantee that facilities will be present when orders are submitted. MCIW 2-1 at p. 12. CLEC's ability to deliver competitive service to its customers is dependent upon Qwest's timely provisioning of forecasted facilities. Id.

119. Sections 7.2.2.8.13 and 7.2.2.8.14 discusses Qwest's trigger for resizing/reclaiming trunk groups, which is a consistent capacity utilization < 60% for a three month period. MCIW 2-1 at p. 12. MCIW recommends that this period of time to analyze capacity utilization be expanded from three months to six months. Id. Six months of usage is a better forecasting window for evaluating capacity trends, and is more appropriate for normal growth planning cycles of both the CLEC and Qwest. Id.

120. Section 7.2.2.8.16 should be clarified and explained as to when Construction Charges would apply. MCIW 2-1 at p. 12. The CLEC should not be required to bear its own costs as well as part of Qwest's costs in the form of Construction Charges. Id.

121. Section 7.2.2.9.2 deals with Qwest's trunking requirements that stipulate that 2-way trunks will be established wherever possible, with exceptions based on billing, signaling, and network requirements. MCIW 2-1 at p. 13. MCIW recommends this be modified to allow for more flexibility on the part of newer CLECs, who may not have the traffic capacity demands that an established carrier might have. Id.

122. Section 7.2.2.9.6 must be modified since Qwest prohibits interconnection at its access tandems, a practice that is contrary to the FCC requirement to allow interconnection at any technically feasible point (47 U.S.C.§ 251(c)(2)(B)), and which results in inefficient use of the network where CLEC traffic is concerned. MCIW 2-1 at p. 13. This policy has no basis in technical feasibility issues as MCIW and Qwest currently exchange traffic at the Qwest access tandem in a number of locations. Id. Therefore, interconnection at Qwest's access tandem is clearly technically feasible, and Qwest must therefore offer this interconnection option to the CLEC. Id.

123. Section 7.3.1.1.2 should be modified in that as the Entrance Facility is used for local interconnection purposes, it should be priced at forward-looking rates and not at rates taken from Qwest's access tariffs. MCIW 2-1 at p. 14.

124. Sections 7.3.1.1.3.1 and 7.3.2.2(a) deal with Qwest's method for calculating facilities compensation which excludes Internet-related traffic from the relative use factor to compensate the provider of the facility for the other party's use of that facility. MCIW 2-1 at p. 15. Under the FCC rules, the cost of facilities which are dedicated to the transmission of traffic between the two parties' networks is intended to be shared by the parties based on the total amount of traffic each party sends over those facilities, whether that traffic is local or otherwise. Id. Qwest's language at Sections 7.3.1.2.1, 7.3.2.3 and 7.3.3 does not address the sharing of the costs associated with those facilities based on any relative use factor at all, and instead requires that the CLEC bear the total cost of those facilities even where such facilities are also used by Qwest. Id. Forcing CLEC's to pay for facilities which carry Qwest traffic without compensation for such usage by Qwest is not justified by the FCC rules, and provides Qwest with an unfair and anti-competitive advantage by granting Qwest a "free ride" on the networks of the CLECs. Id. Also, this basis for sharing the costs of jointly used facilities should be applied to the recurring and nonrecurring charges for all jointly used facilities, not just Entrance Facilities and Direct Trunked Transport as Qwest's SGAT currently provides and as such, MCIW recommends modifying these sections of Qwest's SGAT. Id. While CLECs should not be required to pay nonrecurring charges for trunk installation, if Qwest insists on using these charges, the same methodology described should be used to appropriately allocate such charges. MCIW 2-1 at p. 18. If CLECs are forced to pay trunk installation nonrecurring charges, MCIW would recommend its proposed language be added to Section 7.3.3.1.

125. MCIW requests a clarification on language added to the 7/21/00 SGAT under Section 7.3.4.2.4.1 which was deleted during another state workshop. MCIW 2-1 at p. 19. MCIW recommends that this language be stricken in the Arizona SGAT. Id.

126. Section 7.3.7.2 has been modified to reference "Qwest Cataloged Switched Access tandem switching and tandem transmission rates" rather than, as it originally read in all

prior versions, "Qwest Tariffed Switched Access tandem switching and tandem transmission rates". MCIW 2-1 at p. 19. The change from "Tariffed" to "Cataloged" is not appropriate. Id. Tariffed rates are subject to Commission approval, whereas the approval process for Cataloged rates is not clear and MCIW recommends that this provision be restored to its original wording to reference Tariffed rates only. Id.

127. MCIW recommends that the last three sentences in section 7.3.8, which expands upon the issue of no-CPN traffic, be stricken in their entirety. MCIW 2-1 at p. 20. These three sentences are neither appropriate nor necessary. Id.

128. MCIW does not agree with Sections 7.5.4 and 7.6.3 which provide for Qwest to assess charges against the CLEC for providing billing records. MCIW 2-1 at p. 20. MCIW recommends continuing the practice that neither party will charge the other for providing these records; however, should the Commission determine that charges are appropriate, these sections should be modified such that both Qwest and the CLEC charge the same rates to the other party for the records provided to the other party. Id. MCIW recommends modification of these sections. Id.

129. ELI states that Qwest has failed to provide ELI with interconnection trunking on just and reasonable terms. ELI 2-1 at p. 4. Qwest has failed to build sufficient facilities for interconnection even though ELI has provided Qwest with ample forecasts. Id. Because of Qwest's failure in the provisioning of interconnection trunks, ELI has been forced to constrain its marketing efforts in Arizona, and slow its growth. Id.

130. ELI has had problems with Qwest in the areas of forecasting and provisioning of interconnection trunks. ELI 2-1 at p. 7. Interconnection begins with a good forecasting process between the two companies as it is needed to assure that trunk capacity will be available when needed. Id. The companies should have regular joint planning meetings to discuss forecasts and all other information that is necessary to anticipate traffic demands. Id. If Qwest does not build to meet the interconnection forecasts, the consequences will be provisioning delays and the disruption of service to ELI's' existing and future customers. ELI 2-1 at p.7. While ELI consistently has provided Qwest with thorough forecast information in Arizona on a quarterly basis and more frequently when requested, Qwest still failed to build adequate trunk capacity for ELI's interconnection orders. ELI 2-1 at p. 8.

131. Another concern of ELI is that without adequate interconnection trunking, calls from ELI customers to Qwest customers and from Qwest customers to ELI customers cannot be completed. ELI 2-1 at p. 9. Both companies (ELI and Qwest) must build sufficient capacity at their switches and between their switches to install the interconnection trunks. ELI 2-1 at p. 10. Qwest does not build to ELI's forecasts (meaning adding capacity to a switch or to a facility route in anticipation of increased traffic in the future). ELI 2-1 at p. 11. Because Qwest did not have the capacity necessary for the forecasted trunks when ELI placed orders for the trunks, Qwest "held" many of ELI's trunk orders due to lack of capacity. Id. The effect on ELI has been long provisioning delays for trunk orders which cause ELI to scale back its marketing efforts to service the needs of existing and new customers. Id.

132. Regarding provisioning intervals, Qwest is reporting that provisioning intervals between CLEC trunk orders are over three times faster than internal Qwest trunk orders. ELI 2-1 at p. 13. However, the intervals that ELI is experiencing for interconnection trunk provisioning are much longer than the average CLEC intervals that Qwest is reporting. Id. Because of these long provisioning intervals, some that longer than 150 days, ELI's business is suffering almost a 6 month setback due to Qwest provisioning delays. ELI 2-1 at p. 15.

133. Regarding call blocking, ELI states that Qwest experiences excessive call blocking (blocking greater than 1% or one call blocked for every hundred calls) with not only its trunks but for Qwest's own trunks. ELI 2-1 at p. 17. Data provided by Qwest to ELI shows interconnection trunks with blocking or overflow above 1%. Id. However, the biggest problem is that when interconnection trunks are overflowing, ELI has no knowledge of overflow behind the Qwest tandem. Id. The causes of excessive blocking behind the Qwest local tandem switches are the result of 1) Qwest has not built interconnection trunk capacity to ELI and other CLEC forecasts, and 2) Qwest has not augmented trunks behind the Local Tandem switches as they should have. ELI 2-1 at p. 19. Qwest should provide complete blocking information for ELI to operate its network and to determine if Qwest fulfills its interconnection obligations. ELI 2-1 at p. 18. Such information is critical for properly sizing trunks to the Qwest end offices. Id.

134. ELI states that Qwest should allow CLECs to interconnect at the access tandem in that under the Act, Qwest is required to provide interconnection at any technically feasible point. ELI 2-1 at p. 20. Qwest is violating the Act by refusing to allow interconnection at the access tandem. Id.

135. Finally, ELI states that Qwest's policy in getting interconnection trunks provisioned cause delay for the CLECs. Qwest has confirmed in discovery that they will not accept orders for interconnection trunks until collocation is complete. ELI 2-1 at p. 22. ELI recommends that Qwest give the CLEC a temporary Connecting Facility Assignment (CFA) which would allow CLEC trunk orders to be processed and get in the queue for trunk ports on the switches. ELI 2-1 at p. 23.

2. Collocation

136. AT&T's states that Qwest's definition of collocation illegally limits the premises within which a collocator may place equipment. AT&T 2-1 at p. 52. This definition should be modified with the FCC's declaration that collocation is appropriate where "technically feasible" and not just limit the premises to only wire centers. Id.

137. AT&T states that Section 8.1.1 of the SGAT needs to be modified. Section 8.1.1 states:

> 8.1.1 Collocation allows for the placing of equipment owned by CLEC within Qwest's Wire Center that is necessary for accessing unbundled network elements (UNEs), ancillary services, and Interconnection. Collocation includes the leasing to CLEC of physical space in a Qwest Wire Center, as well as the use by CLEC of power; heating, ventilation and air conditioning (HVAC); and cabling in Qwest's Wire Center. Collocation also allows CLECs to access Interconnection

> Distribution Frames (ICDF) for the purpose of accessing and combining unbundled network elements and accessing ancillary services. There are six types of Collocation available pursuant to this Agreement – Virtual, Caged Physical, Shared Caged Physical, Cageless Physical, Interconnection Distribution Frame, and Adjacent Collocation.

AT&T 2-1 at p. 53. This provision only allows CLECs to collocate Qwest "Wire Centers." Id. The FCC in its *First Report and Order*, however, stated the following:

> We therefore interpret the term "premises" broadly to include LEC central offices, serving wire centers and tandem offices, as well as all buildings or similar structures owned or leased by the incumbent LEC that house LEC network facilities. We also treat as incumbent LEC premises any structures that house LEC network facilities on public rights-of-way, such as vaults containing loop concentrators or similar structures.

Id. Qwest's SGAT should not be allowed to ignore the FCC's mandate and should be modified accordingly. Id..

138. AT&T recommends that Sections 8.1.1.1 and throughout the collocation section of the SGAT, the term "premises" should replace "Wire Center" and "Central Office" where those terms are used to indicate where a CLEC may collocate. AT&T 2-1 at p. 54.

139. Section 8.1.1.4 describing shared physical collocation should be modified by having Qwest clarify this provision to indicate that shared collocation allows for the subleasing of space by one CLEC from another CLEC. AT&T 2-1 at p. 54.
AT&T recommends that Section 8.1.1.6 on adjacent collocation be modified to track the FCC's rule, 47 CFR §51.323(k)(3). AT&T 2-1 at p. 55. In addition, Qwest leaves terms and conditions for adjacent collocation to be determined on an individual case basis which AT&T finds unacceptable. Id.

140. AT&T states that Section 8.2.1.1 describing the rates for collocation should not be qualified as Qwest has done to limit Qwest's duty to provide collocation and should be modified to comply with § 251(c)(6). AT&T 2-1 at p. 56.

141. AT&T recommends that Section 8.2.1.2 should be modified as it previously described the equipment that CLECs could collocate. AT&T 2-1 at p. 56. This section made clear Qwest's policy on the collocation of switching equipment. Id. However, recently the D.C. Circuit Court of Appeals determined that the FCC's definition of necessary as "used and useful" was overly broad and the Court vacated only "the offending portions of the Collocation Order" making quite clear that it did not intend to "vacate the Collocation Order to the extent that it merely requires LECs to provide collocation of competitors' equipment that is directly related to and thus necessary, required, or indispensable to 'interconnection or access to unbundled elements." AT&T 2-1 at p. 56-57. Furthermore, the Court specifically upheld the FCC's definition of cageless physical collocation reciting the FCC's rationale as sound. Id. Qwest, in its 7/21/00 SGAT, has deleted this section and reserved the heading for future use. AT&T 2-1 at

p. 57. The D.C. Circuit did not declare that all collocated equipment that performs a switching function "unnecessary." rather, the Remote Switching Units (RSU) in the cases of collocation in rural areas is necessary, required and indispensable for the efficient deployment of Qwest and CLEC facilities in the state. AT&T 2-1 at p. 57-58. Moreover, the use of RSUs promote an important state and federal objective as they encourage the growth of local telecommunications competition in rural and other locations in Arizona. Id.

142. Sections 8.2.1.4 and 8.2.1.5 regarding demarcation points for UNEs and connection between UNEs and ancillary services must be modified to provide for direct connection from CLEC equipment to Qwest equipment, using the same cross connects that Qwest uses for its own services, without unnecessary intermediate frames. AT&T 2-1 at p. 58.

143. Section 8.2.1.8 refers to Qwest technical publications. AT&T recommends that this section be modified to reflect that portions of these technical publications should be included in the SGAT. AT&T 2-1 at p. 58. This allows for a complete and rigorous investigation of all of these documents to determine if they are consistent with Qwest's SGAT and its legal requirements. Id.

144. AT&T proposes to modify Section 8.2.1.9 which defines a requesting CLEC with collocation information. AT&T 2-1 at p. 59. This Section should further obligate Qwest to respond within a certain time frame. Id.

145. Section 8.2.1.10 describing collocation as offered on a first come, first served basis must be modified to comply with 47 CFR §§ 51.323(f)(2) and 51.323(f)(3). AT&T 2-1 at p. 59.

146. Sections 8.2.1.11 and 8.2.1.12 should be modified to comply with 47 CFR § 51.321(f) and the FCC Collocation Order. AT&T 2-1 at p. 60.

147. Section 8.2.1.13 describes Qwest's web site that lists Qwest premises where collocation space is full. AT&T 2-1 at p. 60. It is AT&T's experience that this web site only includes information on wire centers where CLECs have requested space. ID. Qwest should enhance the web site to list all wire centers and other space that could be available for collocation. Id. Also, the word "collocation" should be inserted before the word "space" at the end of the sentence. Id.

148. Section 8.2.1.14 must be modified to comply with 47 CFR §§ 51.321(i) and 51.323(f)(5). AT&T 2-1 at p. 61.

149. Section 8.2.1.17 requires CLEC equipment and installations to meet earthquake rating requirements. AT&T 2-1 at p. 61. CLEC equipment and installations should only be required to meet standards that Qwest equipment and installations meet as required in 47 CFR § 51.323(b). Id. Therefore, AT&T recommends modifying this section.

150. AT&T has concerns over Section 8.2.1.18 which discusses what appears to be dire consequences for CLEC violations of U S WEST rules. AT&T 2-1 at p. 62. This paragraph

does not define "trespass violations" or "unauthorized individuals." Id. Qwest should clarify these terms. Id. The extremely subjective and unknown definition of "designated and approved areas" leaves CLEC personnel at the whim and mercy of Qwest's ill-defined parameters. Id. Furthermore, there is no similar "trespass" provision that applies to Qwest's personnel. Id. Qwest should add a provision defining clearly when its personnel are committing trespass against the CLEC property or leased space within the collocation space. Id. AT&T states that if this Section is not deleted altogether, Qwest should at least add language from the FCC Collocation Order at ¶ 47 to this Section. Id. Qwest should also disclose whether its personnel are subject to "trespass violations" and it should further reveal the security measures that its personnel are subject to on a day-to-day basis. AT&T 2-1 at p. 63.

151. Section 8.2.1.19 should also be modified to incorporate FCC language from the FCC collocation order paragraph 49 which calls for access to basic facilities such as restroom facilities and parking. AT&T 2-1 at p. 63.

152. AT&T recommends that Sections 8.2.1.25 and 8.2.1.26 be made consistent with Qwest's policy on direct connection. AT&T 2-1 at p. 63. Specifically, in 8.2.1.25 the clause "without direct access to the COSMIC ™ or MDF" should be deleted and in paragraph 8.2.1.26, the reference to the BFR process should be removed as Qwest has agreed to standard methods for direct connection to most types of Qwest cross connect frames and other equipment. Id.

153. AT&T recommends that Section 8.2.1.27 which describes the CLEC's right to subcontract for construction of physical collocation, be modified to allow for a simple conversion from virtual collocation to cageless collocation. AT&T 2-1 at p. 64.

154. Sections 8.2.1.28 and 8.2.1.29 of Qwest's previous SGAT described Qwest's position on subcontracting for physical collocation construction. AT&T 2-1 at p. 64. These Sections were appropriately in the SGAT and while these sections no longer appear in the 4/7/00 or 7/21/00 version of the SGAT, AT&T recommends they be reintroduced and modified. Id.

155. Section 8.2.2.1 should be modified as follows to reflect the standards set forth in 47 C.F.R. § 51.323(e). AT&T 2-1 at p. 65.

156. Section 8.2.2.5 should be modified as follows to more closely comply with FCC orders regarding parity and compliance with NEBS 1 safety requirements and 47 C.F.R. § 51.323(b). AT&T 2-1 at p. 65.

157. Section 8.2.3.3 discusses Qwest's imposition of a usage requirement that has no basis in FCC or state Commission orders. AT&T 2-1 at p. 65. Qwest as a competitor should not unilaterally determine when a CLEC is efficiently using space as efficiency use is the responsibility of both parties. Id. Thus, this section should be changed.

158. Section 8.2.3.5 should allow AT&T the opportunity to review QWEST Technical Publication 77350 for consistency with Qwest SGAT policy and FCC orders. AT&T 2-1 at p. 66.

159. Section 8.2.3.6 should change the reference to "owns" to "owns or leases." as neither the Act, FCC or the Arizona Commission require that a CLEC "own" its collocated equipment. AT&T 2-1 at p. 66.

160. Section 8.2.3.7 discusses a timeframe for installation of CLEC equipment in collocated space. AT&T 2-1 at p. 66. There is a bulletin from the Qwest web site that describes "early access to collocation" so collocators can install their equipment before Qwest work is done and this concept should be built into this section. Id.

161. AT&T recommends modifying Section 8.2.3.9 regarding the terms "unsafe" and "non-standard" since they are vague. AT&T 2-1 at p. 67. The NEBS standards should provide sufficient detail to cover legitimate issues Qwest has with safety and standards. Id.

162. Section 8.2.3.10 gives Qwest the right to unilaterally remove CLEC equipment. AT&T 2-1 at p. 67. While Qwest's concerns about proper installation and operation of equipment, for all parties, is shared by AT&T, the SGAT should contain more equitable language and AT&T's proposed modification should be adopted. Id.
Section 8.2.3.12 discusses caged physical collocation. Qwest, in its 7/21/00 version of the SGAT, deleted the words "listed below" and added "applicable" before the word technical. AT&T 2-1 at p. 68. AT&T claims that this applicable is too vague and, therefore, subject to abuse. Id. AT&T recommends that the applicable standards should be defined specifically. Also, language that states the "NEBS standards" should be replaced by "NEBS 1 safety standards." Id. Finally, the last sentence in this paragraph refers to "two Qwest Technical Publications" without specifying which publications and this should either be removed or the correct publication references inserted and AT&T provided with copies for review. Id.

163. AT&T is unclear with Section 8.2.3.13 as it does not adequately define what the "Qwest Space Reclamation Policy" refers to. AT&T 2-1 at p. 68. If such a policy exists, Qwest must provide it to CLECs and to this Commission for review. Id.

164. AT&T requests a clarification on Section 8.2.4.1 to allow for other technological options such as microwave, wireless or as yet undefined technology. AT&T 2-1 at p. 69.

165. Section 8.2.4.3 should be modified to all for the new "express connect" option. AT&T 2-1 at p. 69.

166. AT&T recommends Section 8.2.4.6 be modified to include language from 47 C.F.R. §§ 51.323(d)(1) and (2). AT&T 2-1 at p. 70.

167. Section 8.3.1.4 does not adequately address Express Fiber Entrance Facility and should be modified accordingly. AT&T 2-1 at p. 70.

168. Section 8.3.1.11 must be modified to accommodate direct connection of CLEC equipment to Qwest equipment without an intervening ICDF (or SPOT frame). AT&T 2-1 at p. 71.

169. Section 8.4.1.2 on ordering collocation does not take into account reasonable business practices. AT&T 2-1 at p. 71-72. Qwest is forcing the CLEC to pay additional fees and possibly endure delays as a result of any change in the initial collocation order.

170. Section 8.4.2.2, which defines intervals, are too long. AT&T 2-1 at p. 72. There is no cage construction, DC power cable runs, HVAC upgrade or other time consuming requirements. Id. Thirty days for installation of equipment should be sufficient and 10 days to swap line cards. Id. A similar time period should apply to cageless collocation as well. Id.

171. AT&T recommends Section 8.4.3.1 be modified to give CLECs some protection that space under consideration by one CLEC is not lost during evaluation. AT&T 2-1 at p. 72.

172. AT&T recommends that Section 8.6.1.3 be modified to provide better protection for CLEC interests and greater action on Qwest's part regarding failure of virtual collocation equipment. AT&T 2-1 at p. 72.

173. AT&T recommends Qwest re-submit Section 8.6.3 in that it places all responsibility for ICDF maintenance on the CLEC. AT&T 2-1 at p. 73. Qwest has maintained in other proceedings that Qwest has responsibility on the "horizontal side" of the ICDF. Id. Qwest should resubmit this Section providing greater clarity about the roles and responsibilities associated with use of the ICDF. Id.

174. MCIW requests further explanation of a "secured barrier" as described in Qwest's definition of Cageless Physical collocation. MCIW 2-1 at p. 22.

175. MCIW expressed concern over Qwest's issuance of a Product Notification dated June 2, 2000, stating that no longer intends to allow collocation of equipment with switching functionality, and that Qwest no longer intends to allow or provide cross connects between carriers, regardless of what is provided for in a CLEC's Interconnection Agreement. MCIW 2-1 at p. 23. Further, Qwest's Product Notification indicates that Qwest may begin requiring removal of such equipment and cross-connects in six months, again, despite what a CLEC's Interconnection Agreement allows. Id. It is MCIW's belief that Qwest has no legal or contractual authority to unilaterally amend the terms of CLECs' Interconnection Agreements based on the court's decision. MCIW 2-1 at p. 23. Qwest is required to comply with the terms of these Interconnection Agreements. Id. Also, although MCIW recognizes that this decision could impact collocation in the future, MCIW reminds Qwest that at this time the order is not final. Id. MCIW believes that Qwest's reliance on this recent court decision is premature until the FCC has reconsidered its collocation order. Id. Finally, MCIW objects to Qwest's attempt to modify the terms of existing, valid Interconnection Agreements via a Product Notification. MCIW 2-1 at p. 24. Qwest may modify the terms of a valid Interconnection Agreement only upon a mutually agreed upon amendment executed by the parties. Id.

176. MCIW recommends that Section 8.1.1 and throughout, any reference made to "Wire Center" be changed to "Qwest premises". MCIW 2-1 at p. 24. Also, the description of "equipment" in this section should be expanded to include the concept of equipment that also includes switching functionality, consistent with the FCC's order. Id. MCIW's last concern with

this section is with Qwest's inclusion of ICDF Collocation in this section and throughout Section 8. MCIW 2-1 at p. 25. ICDF Collocation is not actually a type of collocation such as Physical, Virtual, etc., but rather a method of obtaining UNE combinations. Id. Language concerning requirements for UNE combinations should not be included as part of the Collocation section of the SGAT, and should therefore be removed from Section 8.1.1 and throughout Section 8.0. Id. Any language concerning requirements pertaining to UNE combinations should be addressed in Section 9.0, Unbundled Network Elements, of the SGAT. Id.

177. MCIW recommends that Section 8.1.1.5.1, including subsection 8.1.1.5.1, be stricken in its entirety for the same concerns regarding ICDF collocation. MCIW 2-1 at p. 25.

178. Section 8.1.1.3 and 8.2.3.13, regarding minimum square footage limitations, should be modified. MCIW 2-1 at p. 26. The FCC's order does not permit ILECs to establish minimum square footage limitations except as required by the size of a single bay. Id. While this is currently 9 square feet, language should be added to allow for the reduction of that amount if smaller bays become available. Id.

179. MCIW recommends that the sentence "With respect to any technical requirements or performance standards specified in this Section" should be removed from Section 8.2.1. MCIW 2-1 at p. 26. Qwest's obligations to provide Collocation under just, reasonable and non-discriminatory terms, conditions and rates apply to all aspects of Collocation, not just the technical and performance standards specifically set forth in the SGAT. Id.

180. Section 8.2.1.4, which describes two standard Demarcation Points for UNEs, should be modified to allow for a much more efficient arrangement to have the demarcation point located outside of CLEC's collocation space in a common area. MCIW 2-1 at p. 27

181. Section 8.2.1.8, which references Network Equipment Building System (NEBS) standards and Qwest Technical Publications, here and elsewhere in Section 8, should be changed to only reference NEBS Level 1 standards, as required by the FCC's order. MCIW 2-1 at p. 27. Also, Section 8.2.2.5 should be modified accordingly. Id.

182. Section 8.2.1.9 should be modified to reflect the FCC's order requiring Qwest to provide the reports described in this section within 10 days of CLEC's request. MCIW 2-1 at p. 27.

183. MCIW recommends a revision to Section 8.2.1.10. MCIW 2-1 at p. 28. For CLEC requests for additional space at a premises where CLEC is already Collocated, efforts should be made to provide adjoining space in order to effect the most efficient, cost effective Collocation possible for both parties. Id. Language to address this circumstance should be added to Section 8.2.1.10. Id. The FCC's order requires Qwest to remove obsolete unused equipment from its premises upon request, in order to minimize the likelihood that space exhaust will inappropriately occur due to the use for storage purposes of space that would otherwise be available for collocation and language to this effect needs to be added to this Section to ensure that space exhaustion does not prematurely occur. Id.

184. Section 8.2.1.17 should be removed in its entirety as references to NEBS Level 1 requirements elsewhere in Section 8 sufficiently address safety rating requirements for collocated equipment. MCIW 2-1 at p. 29.

185. Section 8.2.1.19 should be modified to add the FCC's order requiring Qwest to provide CLEC with reasonable access to parking. MCIW 2-1 at p. 30.

186. Section 8.2.1.23 needs to have language added to this section to allow for interconnection of CLECs network. MCIW 2-1 at p. 30. In order to facilitate efficient and cost-effective use of collocated space, the CLEC should be permitted to interconnect not only with Qwest and other CLECs, but also to any dedicated interoffice transport facilities, to any end user's premise, to any other collocating carrier, as well as between CLEC's own collocations (i.e. between a physical collocation and a virtual collocation) and between the collocations of CLEC's affiliates on the same premises. Id. Interconnection methods should not be limited to the use of coax, copper or fiber as specified in this section, and should include any other technically feasible methods of interconnection. Id. Also, CLEC should not be prohibited from using vendors which are not on Qwest's pre-approved vendor list, provided that Qwest be given reasonable approval of any additional vendors that CLEC wishes to use. Id.

187. MCIW recommends language be added to Section 8.2.1.27 to not allow the requirement of the use of the Bona Fide Request Process (BFR) to convert alternative collocation to physical collocation in those situations where CLEC was forced to use alternative collocation due to lack of physical space, and where Qwest subsequently discovers or creates additional physical space. MCIW 2-1 at p. 31.

188. Section 8.2.2.7 imposes unreasonable training costs/requirements on the CLEC for virtually collocated equipment, and should therefore be stricken in its entirety. MCIW 2-1 at p. 32. The parties should mutually agree upon the training program required and the expenses associated therewith based on the specific equipment to be installed. Id.

189. Section 8.2.2.8, as currently written appears to allow for maintenance charges to be applied at Qwest's discretion, rather than establishing a reasonable basis for assessing such charges. MCIW 2-1 at p. 32. This section also makes no exception for costs incurred due to Qwest's fault or negligence, which should not be borne by the CLEC. Id. Therefore, this section should be modified to reflect that maintenance charges for virtually collocated equipment are subject to a standard of reasonableness, and are to be applied in accordance with the Agreement. Id.

190. Section 8.2.3.3 discusses the requirements imposed by Qwest in this section, to force CLEC to "efficiently use" the collocated space within a certain period of time, and to restrict how the space can be used, are unreasonable and arbitrary and should be modified. MCIW 2-1 at p. 32. Section 8.2.3.7 should be stricken in its entirety for the same reasons. MCIW 2-1 at p. 33.

191. MCIW recommends modifying Section 8.2.3.9 by removing references to requirements in excess of NEBS Level 1. MCIW 2-1 at p. 33. Also, Qwest should not be

permitted to stop work on a CLEC's collocation without agreement of, or at the very least reasonable notice to, the CLEC. Id.

192. MCIW recommends Section 8.2.3.10 be stricken in its entirety as this section imposes random audit requirements that are neither reasonable nor necessary to maintain the integrity of the Collocation. MCIW 2-1 at p. 33.

193. Section 8.2.3.12 and following sections should be modified so the CLEC is not restricted to Qwest approved contractors, and should be allowed to perform construction work itself or with a contractor of CLEC's own choosing, subject to Qwest's reasonable approval. MCIW 2-1 at p. 34. Also, this section makes reference to two Qwest Technical Publications which "must be in the possession of CLEC and its agents at the site during all work activities" which are not identified. Id.

194. Section 8.2.4.3.3 should be modified to refer to NEBS Level 1 fire rating requirements. MCIW 2-1 at p. 35.

195. MCIW recommends Section 8.2.4.6 be modified to for dual entry into Qwest's premises where CLEC requests such dual entry for its collocation. MCIW 2-1 at p. 35. To allow Qwest to refuse dual entry to CLECs would result in discriminatory treatment, where Qwest provides diversity to itself but not to CLECs, and places CLECs at a competitive disadvantage when dealing with issues such as cable cuts, etc. Id.

196. Sections 8.2.5, including subsections 8.2.5.1 through 8.2.5.4, should be deleted in its entirety as these section create an obligation on the part of CLECs to interconnect at an ICDF in order to obtain UNE Combinations. MCIW 2-1 at p. 36.

197. MCIW recommends language be added to Section 8.3.1.1 to define and support the use of TELRIC methodology in establishing costs of collocation and preparing quotes. MCIW 2-1 at p. 36.

198. MCIW requests confirmation that the 3-hour minimum labor charge in Section 8.3.1.8 and Section 8.3.2.1 is the same as Qwest also charges itself (i.e. pays its own employee for a call out on Qwest's own equipment) for after hours inspector labor. MCIW 2-1 at p. 36-37. Modification of this section is necessary if Qwest is not consistent with what it charges itself. Id.

199. Section 8.3.1.12 should be modified to reflect that security charges should be cost-based and calculated in accordance with the TELRIC model described in Section 8.3.1.1. MCIW 2-1 at p. 37.

200. Section 8.3.3.1 should be modified. MCIW 2-1 at p. 37. The FCC's order requires the proration of physical collocation space construction and site preparation charges based on CLEC's actual usage of space. Id. Language should be added to this paragraph to ensure the TELRIC-based calculation of these costs as well as the appropriate allocation of these costs to the CLEC. Id. Language regarding the use of Qwest approved contractors should be

modified and the language requiring compliance to Qwest's technical publications should be removed as discussed at Section 8.2.3.12. Id.

201. Section 8.3.4 should be deleted in its entirety, for the same reasons stated above at Sections 8.1.1, 8.1.1.5 and 8.2.5. MCIW 2-1 at p. 38.

202. Sections 8.4.2.2, 8.4.3.1 and 8.4.3.2, concerning ordering intervals, does not clearly require Qwest to adhere to the stated intervals, and in fact allows Qwest to revise such intervals at its option. MCIW 2-1 at p. 38. The language in Sections 8.4.2.2 and 8.4.3.1 should be modified to require Qwest to meet the stated intervals, and to provide shorter intervals for CLEC orders for other than new collocation build-outs. MCIW 2-1 at p. 39. Section 8.4.3.2 should be stricken in its entirety, to remove Qwest's unilateral ability to ignore committed intervals, and replaced with a brief statement concerning the remedy plan applicable to failure to meet committed intervals. Id.

203. Section 8.4.3.3: It is foreseeable that a given CLEC will be collocating at Qwest's premises in more than one state and the language of the SGAT should be clarified to ensure that the maximum number of Collocation orders that the intervals will be applied to is within a given state, and not across all states in which CLEC is ordering Collocation from Qwest. MCIW 2-1 at p. 40.

204. Section 8.4.4, including all subsections, should be stricken in its entirety, for the same reasons stated above at Sections 8.1.1, 8.1.1.5 and 8.2.5. MCIW 2-1 at p. 40.

205. MCIW recommends Section 8.5.1, including subsections 8.5.1.1 and 8.5.1.2, be stricken in its entirety. MCIW 2-1 at p. 40. Section 8.5.1.1 is contradictory and redundant given the process specified in Section 8.5.3.1 and Section 8.5.1.2 is also redundant given the process specified in Section 8.5.3.1, which gives Qwest the right to begin charging monthly recurring rent charges upon signing of the completion package. Id.

206. Section 8.6.3, including subsection 8.6.3.1, should be stricken in its entirety, for the reasons stated above at Sections 8.1.1, 8.1.1.5 and 8.2.5. MCIW 2-1 at p. 41.

207. Rhythms states that Qwest has failed to meet its burden in proving compliance with § 271 regarding interconnection and collocation in the following respects: 1) Qwest unlawfully discriminates in provisioning collocations in a timely manner and in defined intervals; 2) Qwest's SGAT imposes impermissible performance standards on CLECs' collocated equipment; 3) Qwest unlawfully threatens to prohibit and disconnect CLEC-to-CLEC cross-connects necessary for interconnection; and 4) Qwest unlawfully limits collocation to its central offices. Rhythms 2-1 at p. 2-3.

208. Rhythms states that vague and ambiguous terms in the SGAT do not ensure that collocation will be provided on just, reasonable and nondiscriminatory terms and conditions. Rhythms 2-1 at p. 3.

209. Within Section 8.4.3.2 of the SGAT, Qwest commits to an interval of 90 days to complete the building of a physical collocation. Rhythms 2-1 at p. 3. However, Qwest provides itself with an exception to the collocation interval which has the effect of negating the provisioning intervals stated in other sections, because it places no limitation on Qwest's exercise of discretion to extend the interval. Id.

210. Section 8.4.3.2 reads:

> "Due to variables in equipment and scope of the work to be performed, *additional time* may be required for implementation of the structure required to support the Collocation request." (emphasis added)

Id. Unless the SGAT is limited to "concrete and specific" established deadlines, the CLEC cannot be assured it will be provided collocation at "just, reasonable and nondiscriminatory" terms. Id. Rhythms recommends that a 45-day collocation interval apply to collocating provisioning. Rhythms 2-1 at p. 4.

211. Rhythms also states that the absence of provisioning intervals for essential components of collocations unreasonably delays CLEC market entry. Rhythms 2-1 at p. 4. If there is no requirement placed upon Qwest to perform in a timely manner, it may disable the CLEC collocation or delay market entry. Id.

212. Qwest must be required to provide a concrete, enforceable interval for providing accurate Alternate Point of Termination-Connecting Facility Assignment data (APOT-CFA) information, instead of being allowed to impose the current inefficient and serial process. Rhythms 2-1 at p. 5. The SGAT sets for the current process for ordering a collocation. Id. The CLEC submits a collocation application to Qwest. Qwest requires ten (10) days to conduct a feasibility study (which determines whether space, power, and terminations on the frame are available), twenty-five (25) days to transmit a collocation price quote, and then 90 days after the CLEC pays a 50% down payment (45 days for a cageless collocation) before Qwest will perform the collocation construction and turn the space over to the CLEC. Id. A CLEC, however, cannot provide service from a collocation until it has interoffice transport from the collocation and it is not allowed to order interoffice transport by Qwest until it has accurate APOT-CFA information from Qwest. Rhythms 2-1 at p. 5. Qwest, for no apparent reason, refuses to provide the form containing APOT-CFA identifying the location of CLEC's DS0, DS1 and DS3 terminations on the Qwest intermediate frame, until the end of the collocation provisioning process. Id. Therefore, there is further lengthy delay between the actual delivery date of the collocation space by Qwest and the date that the CLEC has interoffice transport that allows it to bring the collocation arrangement on line. Id. The simple and efficient solution to this problem is to require Qwest to implement a parallel processing scheme for collocation construction and transport processing. Rhythms 2-1 at p. 6.

213. Qwest must also commit to a concrete, enforceable interval for provisioning additional TIE cables. Rhythms 2-1 at p. 6. As it currently stands, there is no provisioning interval contained in the SGAT or interconnection agreements that require Qwest to provide

additional cable pairs. Id. Rhythms recommends a 30-day interval for provisioning additional TIE cables. Rhythms 2-1 at p. 7.

214. Rhythms' comments state that Qwest's arbitrary equipment performance standards violate the FCC's Advanced Services Order. Rhythms 2-1 at p. 7. Qwest requires collocated CLEC equipment to meet requirements in "Qwest technical publications," "Qwest Wire Center environmental and transmission standards," and other discretionary requirements, all of which are unspecified and undisclosed in SGAT Sections 8.2.1.8, 8.2.2.5, 8.2.3.9 and 8.2.3.12. Id. Also, Qwest's SGAT does not contain the requirement of the FCC's order "that, although an incumbent LEC may require competitive LEC equipment to satisfy NEBS safety standards, the incumbent may not impose safety requirements that are more stringent than the safety requirements it imposes on its own equipment that it locates in its premises." Rhythms 2-1 at p. 8. Rhythms recommends that Qwest specify that collocation may be denied only based on application of NEBS Level 1 safety standards. Rhythms 2-1 at p. 9. Further, Qwest must be required to disclose and specifically describe the standards to which it holds collocating CLECs and those standards must be incorporated in the *SGAT*. Id.

215. Rhythms also recommends that the SGAT be supplemented with a defined process that would, at a minimum, require Qwest to provide written notice of a safety issue to the CLEC, which notice would include a statement of the safety issue, the NEBS standard implicated, and the nondiscriminatory application of the standard to Qwest itself. Rhythms 2-1 at p. 9. Furthermore, if Qwest intends to remove, prohibit, or disable equipment in a CLEC's collocation arrangement, it should be required to petition the Arizona Corporation Commission to get approval to take such action, unless there is an hazardous condition that threatens an imminent threat to safety or network integrity. Id.

216. Rhythms states that Qwest must allow CLEC to CLEC cross-connects necessary for interconnection and collocation. Rhythms 2-1 at p. 10. Rhythms strenuously disagrees with Qwest's position that it has no legal obligation to provide CLEC-to-CLEC cross-connects. Id. CLEC-to-CLEC cross-connects are necessary for CLECs to interconnect collocations in order to deliver telecommunications traffic to one another. Id.

217. Finally, Rhythms states that Qwest unlawfully limits collocations to its central office facilities. Rhythms 2-1 at p. 10. SGAT Section 8.1.1 states that collocation is limited to "Qwest's Wire Center." Id. Rhythms disagrees with this characterization and the language in the SGAT. Id.

e. Qwest Response

1. Interconnection

218. In response to AT&T's issue on Location Routing Number (LRN), Qwest stated that the dispute between Qwest and AT&T is not whether a CLEC is entitled to a single LRN per LATA per switch since CLECs are successfully using a single LRN per LATA per switch now. Qwest 2-3 at p. 7. The lack of agreement between Qwest and AT&T is driven by AT&T's demand that it be permitted to use existing Feature Group D trunk groups to deliver local traffic to Qwest's Access Tandem. Id.

219. However, on March 27, 2000, Qwest provided an interim solution, which allowed AT&T to utilize a single LRN per LATA immediately. Qwest 2-3 at p. 7. Qwest has opposed the use of its Access Tandem for routing local traffic for anything but an interim solution to implement a 'single LRN per LATA' approach. Qwest 2-3 at p. 8. Qwest's position is a result of the fact that Qwest has designed two separate networks – 1) a local transport network that transports local traffic, and 2) a separate toll or switched access transport network that transports toll and switched access traffic. Id. Qwest does not route local traffic on its toll/switched access network, and does not route toll or switched access traffic on its local transport network. Qwest did agree to permit AT&T to exchange local traffic at Qwest's Access Tandem switch, subject to several conditions:

1) The use of the Access Tandem would be limited to those Qwest end offices that do not subtend a Qwest local tandem switch

2) Once the local traffic destined to any single Qwest end office grew to require at least one DS1's worth of local traffic, direct trunking to that end office will be established

3) AT&T will establish a separate trunk group from its switch to the Qwest Access Tandem for the local traffic that it delivers to Qwest; and

4) Signaling System 7 messaging will be used for all trunk groups between the AT&T switch and the Qwest Access Tandem. Id.

220. Regarding trunk planning and AT&T's claims that Qwest was not willing to update its information in the LERG database, Qwest does not agree with this claim as it updates information in both the Local Exchange Routing Guide and the Qwest Interconnections (ICONN) Database whenever changes are made within the Qwest network (for example the addition of new NXX codes, central office changes, feature enhancements, homing arrangements). Qwest 2-3 at p. 10. These updates are made on a daily basis and in compliance with industry standards. Id.

221. Qwest does not agree with AT&T's recommendation that the SGAT be modified to remove the language addressing the "Routing Supplemental Form – Wireline". Qwest 2-3 at p. 11. This supplemental form was developed to alleviate problems experienced with routing of

CLEC calls and to assist CLECs in providing additional information that is not available in the LERG for the routing of their traffic (for example some CLECs segregate traffic based on the NXX codes, route traffic over other carrier facilities, or have multiple trunk groups available for routing local traffic). Id. The supplemental form is only recommended (absent any other tool for obtaining the information) when the routing information is not available in the LERG. Id. Qwest would agree to change the language to state that "Information that is not currently available in the LERG may be provided via the Routing Supplemental Form". Id.

222. Regarding the CLECs issue on selecting one Point of Interface per LATA, Qwest provides Inter Local Calling Area (InterLCA) facilities in an effort to allow a CLEC to build a single presence in a LATA. Qwest 2-3 at p. 12. While AT&T claims that Qwest is refusing to establish a single presence in a LATA, Qwest has repeatedly advised AT&T that it can establish a single POI per LATA to exchange traffic with end offices in 'remote' local calling areas through use of Qwest's InterLCA Facility option. Qwest 2-3 at p. 12-13. AT&T has taken the notion of single POI per LATA to require Qwest to install tandems where they do not currently exist, at the request and convenience of a CLEC. Qwest 2-3 at p. 13. Nothing in the Telecommunications Act or Arizona law requires Qwest to install new tandems for the convenience of CLECs. Id. Qwest is required to provide access to its existing network, and has repeatedly expressed its willingness to do so. Id.

223. On the issue raised by AT&T and MCIW regarding port fill and trunk group utilization, Qwest has agreed to provide switch port fill and trunk group utilization reports. Qwest 2-3 at p. 14.

224. Regarding the issue of having Qwest deliver interconnection trunking on diverse routes, Qwest routinely does this for interconnection trunk groups carrying E911, directory assistance and operator services traffic. Qwest 2-3 at p. 14. Qwest does not explicitly customize diversity for conventional local trunking for several reasons: 1) Qwest currently provides protection against route failures via alternate routing, 2) Qwest often provides diversity as trunk groups are designed and augmented, and 3) diversity can be provided at many levels. Qwest 2-3 at p. 14. Qwest agrees to arrange local interconnection trunk diversity to the same degree it does so in the traditional local network. Id.

225. Qwest did agree to a language change regarding SGAT Section 7.1.1. This language is intended to propose that a toll trunk group should not terminate on the local side of a combined tandem and a local trunk group should not terminate on the toll side of a combined tandem. Qwest 2-3 at p. 15.

226. Regarding MCIW's concern over SGAT Section 7.1.2 on methods of interconnection, Qwest does not agree with MCIW's request to change section 7.1.2 fully but will agree to change the final sentence by adding language that references other methods of interconnection mutually agreeable to the Parties. Qwest 2-3 at p. 15-16.

227. To address MCIW's concern on InterLCA Facilities described in SGAT Section 7.1.2.4, Qwest proposes a counterproposal to the language MCIW presented. Qwest 2-3 at p. 16.

228. Qwest agreed to AT&T's proposed changes to 7.2.2.8.13 regarding underutilization and will agree to strike section 7.2.2.8.14. Qwest 2-3 at p. 16.

229. Qwest has agreed to modify section 7.2.2.8.16 as proposed by AT&T regarding construction charges. Qwest 2-3 at p. 17. Also, while Qwest has not yet applied excessive construction charges to any interconnected carrier, Qwest states that this section is clear that the extraordinary circumstances include lakes, rivers, steep terrain, and construction around federal, Native American or private rights-of-way. Id.

230. Qwest did not agree with MCIW's new language at section 7.2.2.9.2 regarding one-way trunking as the current language allows a CLEC to choose either one-way or two-way trunking. Qwest 2-3 at p. 17. The proposed language changes do not improve the existing SGAT language. Id.

231. Regarding MCIW's issues on billing records charges and sections 7.5.4 and 7.6.3, Qwest agrees it should pay for the records which it requests from other companies at the same rate it charges CLECs and agrees to make these sections reciprocal. Qwest 2-3 at p. 18.

232. Qwest did not agree with AT&T's proposal to strike language at section 7.1.2.2 regarding tie pairs. Qwest 2-3 at p. 19. Tie pair rates are cost–based and are the outcome from the Arizona cost docket and therefore not in need of changing. Id.

233. AT&T proposes that since mid-span meets are technically feasible anywhere in a LATA, Qwest should not limit its scope of possible meet-points to the local calling area served. Qwest 2-3 at p. 19. Qwest relies on language at paragraph 553 of the FCC First Report and Order, FCC 96-325 where it is stated, "Regarding the distance from an ILEC's premises that an ILEC should be required to build out facilities for meet point arrangements, the parties and state commissions are in a better position to determine the appropriate distance for reasonable accommodation of interconnection." Id. Qwest strongly encourages the Commission against placing such a one-sided, cost intensive requirement upon Qwest. Id.

234. Qwest did not agree to delete language requiring a CLEC's "obligation to sell transport" to Qwest in sections 7.2.2.1.2.2 and 7.2.2.1.3. Qwest 2-3 at p. 20. These sections of the SGAT align with section 251(a)(1)(a) of the Telecom Act where it is prescribed that a general duty of telecommunications carriers is to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers. Id. Thus, it is each carriers' obligation to provide interconnection to other LECs. Id.

235. With respect to signaling, Qwest did not agree to modify section 7.2.2.6.1 because Qwest offers three options from which a CLEC may choose. However, Qwest did agree to modify its SGAT to make its offering more clear to avoid misunderstandings of Qwest offerings. Id.

236. Qwest agreed to accept AT&T's proposed language regarding 64 kilobit per second clear channel capability. Qwest 2-3 at p. 21.

237. Regarding switch additions per Section 7.2.2.8.3, Qwest proposed a modified version of the language proposed by AT&T.

238. Qwest agreed to changes to the confidentiality provisions of the SGAT in section 7.2.2.8.12. Qwest 2-3 at p. 22.

239. Regarding blocking in section 7.2.2.9, Qwest did not agree to modify its language since it is the subject of performance measurements related to interconnection that have been discussed, agreed to and finalized in the Arizona 271 process. Qwest 2-3 at p. 23.

240. Regarding testing, AT&T proposed a modification to section 7.2.2.10.2.2 that Qwest did not agree to. Qwest 2-3 at p. 23. Carriers each choose to perform testing to a different extent as Qwest does not have the opportunity to decide when enough testing has been performed. Id.

241. Regarding service performance, AT&T and ELI state Qwest has had difficulty provisioning trunks and in many instances facilities are not available when a trunk is requested. Qwest 2-3 at p. 23. Qwest tracks average provisioning intervals for LIS trunks and, when a trunk is not provided on time, the average number of days that the trunk is delayed. Id. Thus, this data is tracked and, as the performance metrics show, Qwest's performance on interconnection provisioning has been uniformly positive. Id. While ELI specifically raised concerns about Qwest's performance and complains that several of its LIS trunk orders were delayed, Qwest states that the facts do not appear to bear that out. Qwest 2-3 at p. 24. From the fourth quarter of 1999 to second quarter 2000, twenty-two (22) of ELI's LIS orders went held for various reasons. Id. Of these 22 held orders, sixteen (16), or 73%, were either not forecast by ELI or were under-forecasted. Id. Of the sixteen (16) orders, twelve (12) of the orders constituting 1,296 trunks were not forecasted at all. Id. The four (4) orders that were under-forecast totaled 240 trunks. Id. Only 6 of the orders were forecasted and these orders were delayed due to a shortage of switch or facilities. Id.

2. Collocation

242. Regarding intervals, the CLECs call for shorter provisioning intervals for collocation. Qwest 2-3 at p. 24. With the exception of establishing a 10-business day interval for feasibility studies, the FCC has not adopted specific provisioning intervals for collocation. Id. The standards in Qwest's SGAT are consistent with the standards established for these three intervals in the ROC workshop discussion of Performance Indicator Descriptions and therefore, do not be reduced to achieve compliance with this checklist item. Id.

243. Rhythms also raised concerns with what it characterizes as Qwest's "haphazard" collocation performance. Qwest 2-3 at p. 25. However, Qwest's performance for Rhythms this year in Arizona has been outstanding. Id. Rhythms submitted 38 feasibility requests to Qwest in Arizona in 2000 to which Qwest responded to all in ten days. Id. In 2000, in Arizona, Qwest developed 48 quotes for Rhythms, all within the 25-day interval. Id. In 2000 Qwest turned over 20 collocation sites, all on or before the ready-for-service date. Id.

244. Rhythms also raised an issue with Qwest's delivery and accuracy of APOT/CFA information. Qwest 2-3 at p. 25. Qwest has made significant process improvements during the last three months that will improve Qwest's performance in this area. Id. A review of Rhythms' APOT documents does not reveal recent problems with accuracy. Id.

245. CLECs raised the issue for provisioning of transport prior to the onclusion of collocation space preparation. Qwest 2-3 at p. 25. Qwest has not permitted CLECs to order transport prior to the conclusion of a collocation installation, because that is the first time accurate assignment of the transport facility can be achieved with Qwest's current systems. Id. However, Qwest is reviewing the possibility of ordering transport prior to the completion of collocation, and expects to have the result of this review completed in the near future. Id.

246. Regarding Section 4.1.2 and 8.1.1, Qwest proposes to modify the SGAT definition of collocation to permit collocation in Wire Center buildings, and other buildings or similar structures owned or leased by Qwest that house its network facilities, and all structures that house Qwest facilities on public rights-of-way, including, but not limited to vaults containing loop concentrators or similar structures. Qwest 2-3 at p. 26. Additionally, at the request of AT&T and MCIW, Qwest agreed that the terms "Wire Center" and "Central Office" will be replaced by the–term "Premises" throughout the Collocation section of the SGAT to reflect the broader availability of collocation. Id.

247. Qwest has agreed to modify Section 8.1.1.3 regarding cageless physical collocation, to accommodate smaller bay sizes that may become available in the future. Qwest 2-3 at p. 28.

248. Per AT&T's request, Qwest agreed to modify section 8.1.1.4 regarding one CLEC subleasing space to a second CLEC. Qwest 2-3 at p. 28.

249. Qwest did not agree to MCIW's proposal to move the ICDF form of collocation from the Collocation Section of the SGAT (Section 8) to the UNEs Section (Section 9). Qwest 2-3 at p. 29. This is just another form of collocation that a CLEC may use to access not only UNEs, but for access to ancillary services as well. Id.

250. Qwest agreed to AT&T's request to modify Section 8.1.1.6 to add specificity to Qwest's offering of adjacent collocation. Qwest 2-3 at p. 30. AT&T also argues that that the terms for adjacent collocation should not be developed on an individual case basis, but rather that standard terms and conditions should be included in the SGAT. Id. Qwest disagrees with AT&T as adjacent collocation, by its very nature, should be rare – because it is available only when space is exhausted in a Qwest premise. Id. And, because each adjacent collocation arrangement will be unique, the development of standardized terms and conditions would be difficult, at best. Id.

251. Qwest agreed, at AT&T and MCIW's request, to delete the first clause in Section 8.2.1.1 regarding standards and add AT&T's proposed sentence to the end of the section. Qwest 2-3 at p. 31.

252. AT&T and MCIW requests modification of Section 8.2.1.2 to permit the collocation of switching equipment, including RSUs, on the basis that the language in this paragraph is inconsistent with the D.C. Circuit's decision. Qwest 2-3 at p. 31. That decision clearly vacated the FCC's rules which required Qwest to permit the collocation of switching equipment. Id. The SGAT language merely acknowledges this state of the law. Id. Qwest is developing new language for this section of the SGAT which will allow for collocated packet/ATM. Id.

253. Qwest does not agree to AT&T's request to modify Sections 8.2.1.4 and 8.2.1.5 to accommodate direct connections. Qwest 2-3 at p. 32. Additionally, Qwest does not agree, at MCIW's request, to modify this section to require the demarcation to be established outside of the CLECs collocation space as the section currently offers CLECs the option of selecting an alternative demarcation point that is acceptable to both parties. Id.

254. With regard to AT&T's proposal that the relevant portions of the technical publications be incorporated within the SGAT (Section 8.2.1.8), Qwest disagrees since the referencing of Qwest technical publications is a reasonable practice and AT&T's proposal would transform Qwest's SGAT into an unreasonably long and cumbersome document. Qwest 2-3 at p. 33. Also, MCIW proposed modifications to the paragraph to limit the technical requirements to NEBS level 1 safety standards. Qwest 2-3 at p. 33. Qwest will modify this section of the SGAT to remove the reference to the Qwest's technical publications, and rely instead on reference to the Network Equipment Building System (NEBS) standards, level 1, as permitted by the FCC rules. Id. Finally, Qwest will agree to modify language within this section, per AT&T's request, to require Qwest not to impose more stringent standards on CLEC equipment than Qwest imposes on its own equipment. Qwest 2-3 at p. 34.

255. Regarding Section 8.2.1.9 on where space for collocation has been exhausted, Qwest will modify the SGAT per AT&T and MCIW's request to ensure that such information is provided to CLECs within 10 days of a request. Qwest 2-3 at p. 34.

256. Qwest has agreed to add language to Section 8.2.1.10 regarding availability of collocation space on a first come, first served basis per AT&T and MCIW's request. Qwest 2-3 at p. 35. However, Qwest did not agree to add language proposed by MCIW addressing the removal of obsolete unused equipment since it is already referenced in Section 8.2.1.14. Id.

257. Per AT&T's request, Qwest has agreed to change Section 8.2.1.12 which requires Qwest to provide the Commission with detailed floor plans whenever Qwest denies a CLEC request for collocation due to lack of space. Qwest 2-3 at p. 36.

258. Regarding Section 8.2.1.13 on websites, AT&T proposed that the website be expanded to include all premises where collocation may be requested, not just those wire centers that have been exhausted. Qwest 2-3 at p. 36. Qwest states that AT&T's proposal goes beyond the requirements of the FCC's Advanced Services Order and maintains a list of all known premises that are out of space to new collocators which is already reflected in the SGAT. Id.

259. Qwest has agreed to modify Section 8.2.1.14 regarding obsolete equipment at AT&T's request to require the cost of such reclamation be borne by Qwest. Qwest 2-3 at p. 37. However, two other proposals by the intervenors are unacceptable to Qwest. Id. First, AT&T proposes that the quote for space reclamation be completed in 30, rather than 60 days. Id. AT&T's comment implies that the 30 day interval is a requirement by the FCC, but the FCC has not established a required interval for developing such quotes. Id. Performing such work in a 60 day period is reasonable, and permissible under the FCC's rules. Id. Second, Qwest should be required to relinquish **any** space reserved for future use by Qwest. Qwest 2-3 at p. 38. This proposal is unsupported by FCC rulings and could seriously undermine Qwest's ability to provide service to its retail customers. Id.

260. Qwest agrees to modify Section 8.2.1.17 regarding earthquake rating requirements and will adopt AT&T's proposed language which should also be acceptable to MCIW. Qwest 2-3 at p. 38.

261. Regarding AT&T's concern over Section 8.2.1.18, Qwest does not agree to define "trespass violations" or "designated and approved areas" as these terms are well understood. Qwest 2-3 at p. 39. Together, these terms simply make that CLEC personnel may access their equipment, and collocated space and other common areas of the premises (like bathrooms, eye wash stations, elevators, etc.) but may not tour Qwest administrative areas or equipment areas unless invited by Qwest personnel. Id. Qwest should not be required to subject CLEC employees and their vendors to the same security arrangements that apply to Qwest personnel since its personnel are subject to a wide range of internal policies, violation of which subject the employees to penalties up to, and including, dismissal. Id.

262. Qwest has agreed to AT&T's proposal regarding Section 8.2.1.19 on Amenities with language that would specify that CLECs have access to basic facilities, including parking. Qwest 2-3 at p. 40.

263. Regarding Section 8.2.1.23 on CLEC-to-CLEC Ties, MCIW requested several changes. Qwest 2-3 at p. 40. Qwest finds the most of MCIW's proposal acceptable with the exception that CLECs be permitted to use "any technically feasible" means of interconnecting its collocated equipment with the collocated equipment of another party. Id. This is unreasonably unlimited, and has the potential of interfering with Qwest's legitimate property rights. Id. Qwest offers CLECs the option of using fiber, coax, or copper cable, and will consider other arrangements through the BFR process. Id.

264. AT&T proposed language regarding direct connection from collocation equipment to traditional Qwest frames terminating analog and DSO circuits per Section 8.2.1.25 and 8.2.1.26. Qwest 2-3 at p. 41. Qwest states that changes to these sections are unnecessary to eliminate intermediate frames since direct connection is available now. Id.

265. AT&T had concerns over Section 8.2.1.27 in that a simple conversion of a virtual collocation arrangement to a cageless physical collocation arrangement should be permitted in a more streamlined manner, and in under 30 days. Qwest 2-3 at p. 42. While AT&T did not propose specific language, Qwest has modified the section to provide a streamlined process for

certain conversions. Id. MCIW proposes that if a CLEC adopts one form of collocation because its preferred form of collocation is not available due to lack of space and, subsequently, additional space is available to accommodate the CLEC's preferred option, the CLEC should not be required to use the BFR process nor be subject to conversion charges. Qwest 2-3 at p. 42. Qwest is entitled to recover its costs of such conversions, and, as a result, is unwilling to provide such conversions to CLECs at no charge. Id. Therefore, Qwest has not agreed to MCIW's request. Id.

266. Qwest has agreed to add language at the request of AT&T to Section 8.2.2.1 relating to Qwest's responsibility for installing and maintaining a CLEC's virtually collocated equipment. Qwest 2-3 at p. 43.

267. Both AT&T and MCIW requested Qwest to modify Section 8.2.2.5 on NEBS Level 1. Qwest 2-3 at p. 43. Qwest agreed to AT&T's proposal as MCIW's request would eliminate the requirement that the equipment be in compliance with statutory requirements. Id.

268. Qwest did not agree to delete Section 8.2.2.7 on Training per MCIW's request since this section allows Qwest to recover the cost of training its employees on unfamiliar equipment that is virtually collocated by a CLEC, and which must be installed and maintained by Qwest employees. Qwest 2-3 at p. 44.

269. Qwest did agree to MCIW's request to clarify Section 8.2.2.8 regarding the charges Qwest may impose on CLECs for the maintenance and repair of the CLEC's virtually collocated equipment. Qwest 2-3 at p. 44.

270. Regarding Section 8.2.3.3 which establishes requirements for the efficient use of collocation space by CLECs, AT&T and MCIW propose modifications to the section which would eliminate a requirement that a CLEC use no more than 50% of its leased space for storage cabinets or work surfaces. Qwest 2-3 at p. 45. Qwest does not agree with the parties and states that these restrictions are reasonable. Id. CLEC's are permitted, under the Act, to collocate equipment that is necessary for interconnection and access to unbundled network elements. Id. It seems clear that a CLEC that utilizes a substantial amount of space for storage cabinets or desks is using the space for purposes not specifically required under the Act. Id.

271. Qwest agrees with AT&T's request to add the words "or leases" to Section 8.2.3.6 on physical collocation equipment lease. Qwest 2-3 at p. 45.

272. Per AT&T's request, Qwest agreed to add language to Section 8.2.3.7 that will ensure CLECs have access to the collocated space prior to the completion of the installation work by Qwest. Qwest 2-3 at p. 45.

273. Qwest agreed to modify Section 8.2.3.9 to clarify the safety standards that apply to CLEC equipment. Qwest 2-3 at p. 46.

274. Regarding Section 8.2.3.10, AT&T requested that the parties be required to negotiate for 30 days and if no agreement is reached, the Commission will be required to resolve

certain conversions. Id. MCIW proposes that if a CLEC adopts one form of collocation because its preferred form of collocation is not available due to lack of space and, subsequently, additional space is available to accommodate the CLEC's preferred option, the CLEC should not be required to use the BFR process nor be subject to conversion charges. Qwest 2-3 at p. 42. Qwest is entitled to recover its costs of such conversions, and, as a result, is unwilling to provide such conversions to CLECs at no charge. Id. Therefore, Qwest has not agreed to MCIW's request. Id.

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269. Qwest did agree to MCIW's request to clarify Section 8.2.2.8 regarding the charges Qwest may impose on CLECs for the maintenance and repair of the CLEC's virtually collocated equipment. Qwest 2-3 at p. 44.

270. Regarding Section 8.2.3.3 which establishes requirements for the efficient use of collocation space by CLECs, AT&T and MCIW propose modifications to the section which would eliminate a requirement that a CLEC use no more than 50% of its leased space for storage cabinets or work surfaces. Qwest 2-3 at p. 45. Qwest does not agree with the parties and states that these restrictions are reasonable. Id. CLEC's are permitted, under the Act, to collocate equipment that is necessary for interconnection and access to unbundled network elements. Id. It seems clear that a CLEC that utilizes a substantial amount of space for storage cabinets or desks is using the space for purposes not specifically required under the Act. Id.

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273. Qwest agreed to modify Section 8.2.3.9 to clarify the safety standards that apply to CLEC equipment. Qwest 2-3 at p. 46.

274. Regarding Section 8.2.3.10, AT&T requested that the parties be required to negotiate for 30 days and if no agreement is reached, the Commission will be required to resolve

the disputes. Qwest 2-3 at p. 47. Qwest does not agree with this change. Qwest cannot agree to such a cumbersome and potentially time-consuming process to resolve a hazardous condition on Qwest's property. Qwest 2-3 at p. 47. The current language allows the CLEC fifteen days to correct the hazardous condition, which is generous under the circumstances. Id. This modification could substantially delay the resolution of the hazardous condition. Id. Additionally, MCIW requested to have the entire section deleted which Qwest does not agree with.

275. With regard to Section 8.2.3.12 on vendor of choice, AT&T and MCIW requested modifications that Qwest agreed to. Qwest 2-3 at p. 48. However, MCIW also proposed to delete the requirement that CLECs comply with applicable local, state, or federal regulatory requirements that Qwest does not agree to. Id.

276. AT&T requests to modify Section 8.2.3.13 to redefine Cageless Collocation to permit CLECs to have their equipment intermingled with Qwest equipment. Qwest 2-3 at p. 49. Qwest does not agree to this change and is not prepared to modify its Cageless Collocation in this manner. Id. Qwest is entitled, under the FCC's rules, to segregate CLEC equipment from Qwest equipment as a form of security. Id. MCIW proposed language to permit a reduction of the minimum square footage for cageless collocation, in the event smaller equipment bays become available. Qwest 2-3 at p. 49. MCIW proposes different language in this section than his similar proposal in Section 8.1.3. Id. To maintain consistency, Qwest agreed to incorporate the same-language MCIW proposed, and Qwest accepted, from section 8.1.3 in section 8.2.1.13. Id.

277. Qwest agreed, at AT&T's request, to modify Section 8.2.4.1 to permit the use of other technologies including "yet undefined technology" for facility access to a CLEC's collocation space. Qwest 2-3 at p. 50.

278. Qwest also agreed, at AT&T's request, to modify Section 8.2.4.3 to clarify the section does not apply to the Express Fiber Entrance Facility option. Qwest 2-3 at p. 50.

279. MCIW requested and Qwest agreed to modify Section 8.2.4.3.3 to reflect NEBS level 1 safety requirements. Qwest 2-3 at p. 51.

280. Regarding Section 8.2.4.6 on Dual Entrance, Qwest has agreed to AT&T's request to modify this section. Qwest 2-3 at p. 51. However, Qwest has modified AT&T's proposal with the addition of the phrase "Upon CLEC request". Id. MCIW requested that the section be deleted in its entirety and replaced with a single sentence "Dual entry into a Qwest premises will be provided upon request by CLEC." Qwest 2-3 at p. 52. Qwest does not agree with this change. Id.

281. Qwest did not agree with MCIW to remove the ICDF form of collocation from Collocation Section of the SGAT (Section 8) to the Unbundled Network Elements Section (Section 9). Qwest 2-3 at p. 52. Qwest states that this is just another form of collocation that a CLEC may use to access not only UNEs, but for access to ancillary services as well. Id.

282. Qwest did not agree with MCIW to add language to Section 8.3.1.1 to require that pricing for collocation be in accordance with TELRIC principles as it would be redundant to add language specifying TELRIC principles in each discussion of rate elements. Qwest 2-3 at p. 53.

283. Qwest did agree with AT&T's request to modify Section 8.3.1.4 to clarify that the Express Fiber Entrance Facility does not require a fiber cable, which is provided by the CLEC. Qwest 2-3 at p. 54. However, Qwest did not agree with AT&T's proposal that the Express Fiber Entrance Facility does not require relay rack since relay racking is required to support the CLEC-provided fiber cable from its entrance into the building to the CLEC's collocation space. Id.

284. Qwest did not agree with MCIW's concern that Section 8.3.1.8 and 8.3.2.1 included an unreasonable minimum charge for three hours of labor when an inspector is called out after normal business hours. Qwest 2-3 at p. 54. Based upon Section 5.1(b) of the current agreement with the CWA, three hours is the minimum amount paid to an employee for a call out after normal business hours. Id. Furthermore, three hours is a reasonable increment of time for the probable effort required. Id.

285. Qwest did agree with AT&T's request to modify Section 8.3.1.11 on Direct Connection to include direct connections to Qwest frames other than the ICDF. Qwest 2-3 at p. 55.

286. MCIW requested two changes to Section 8.3.1.12 on the issue of security. Qwest 2-3 at p. 58. First, MCIW proposed to modify this section to require charges be developed in accordance with TELRIC principles. Id. Qwest believes such language is unnecessary, because such charges will be reviewed and approved by the Commission in its ongoing cost docket. Id. Second, MCIW proposed to delete the final sentence in this paragraph. Qwest 2-3 at p. 58. Since these costs are either not appropriate or are still in development, Qwest agrees to strike this language. Id.

287. Qwest did agree to modify Section 8.3.3.1 at the request of MCIW regarding space construction and site preparation. Qwest 2-3 at p. 58-59.

288. AT&T proposed a modification to Section 8.4.1.2 to permit minor modifications, such as the reduction in the number of AC outlets requested by the CLEC, to occur without going through the process of resubmission of a new order. Qwest 2-3 at p. 60. This paragraph requires the CLEC to submit a new request for quote and, if the new quote is accepted, a new order form. Id. If, in AT&T's proposal, the request is minor in nature, the paragraph calls for the modification to be "implemented with the original request." Therefore, Qwest states that the section need not be modified. Id.

289. Qwest did not agree to MCIW's proposal to modify Section 8.4.2.2 that would require Qwest to complete all collocations in 90 days, unless the CLEC agrees to a longer interval. Qwest 2-3 at p. 61. Qwest legitimately requires additional time in the event a major addition, such as a power plant modification or addition, is required and has not taken advantage of this exception. Id.

290. Qwest did agree to AT&T's proposal to add language to Section 8.4.3.1 that would reserve for a CLEC the entrance facility and floor space during the period after the quote is provided to the CLEC. Qwest 2-3 at p. 61.

291. Qwest did not agree with MCIW's request to delete Section 8.4.3.2 which allows Qwest additional time to complete a collocation option if, for example, a power plant addition is required. Qwest 2-3 at p. 62. MCIW also stated it should be replaced with language to indicate that Qwest will be subject to fines and penalties for failing to meet the specified intervals in accordance with the penalty plan under development by the ROC. Id. Qwest does not agree that a change to this section is warranted at this time. Id. The penalty plan is likely to address a wide range of service intervals, commitments, and services and it is unreasonable to modify the SGAT to try and capture each potential penalty at this time. Id. Also, Section 20 of the SGAT has been reserved for this specific purpose and Qwest anticipates that the penalty plan ultimately adopted by Qwest and this Commission will be incorporated in Section 20. Id.

292. MCIW proposes that the limitation on the number of collocation orders a CLEC may submit simultaneously and still obtain the standard intervals be expanded to five orders per state, rather than five orders per region. Qwest 2-3 at p. 63. Qwest agrees to clarify, but cannot now promise standard intervals at the higher volume rate. Id.

293. Qwest does not agree with MCIW's proposal to delete Sections 8.5.1.1 - 8.5.1.2 regarding billing. Qwest 2-3 at p. 64. Section 8.5.1.1 addresses billing for all forms of collocation. Id. Section 8.5.2 provides additional information that is unique to virtual collocation, and Section 8.5.3 provides additional information that is unique to caged and shared physical collocation. Id.

294. Qwest did agree to modify Section 8.6.1.3 at AT&T's request, to clarify Qwest's responsibility to repair a CLEC's virtually collocated equipment in a non-discriminatory manner. Qwest 2-3 at p. 64.

f. Disputed Issues

295. At the conclusion of the August 16, 2000 and February 13, 2001 workshops, the parties were unable to agree on a number of issues that went to impasse involving interconnection and collocation. Statements of Positions on the impasse issues were filed by AT&T, MCIW, Sprint and Qwest on March 28, 2001.

INTERCONNECTION IMPASSE ISSUES

DISPUTED ISSUE NO. 1: Whether Qwest should indemnify CLECs against poor service quality? (SGAT Section 7.1.1.1.2)

a. Summary of Qwest and CLEC Positions

296. AT&T argued that despite its efforts to provide Qwest the necessary information to meet AT&T's interconnection trunking needs during joint trunk planning sessions, AT&T

frequently encounters Qwest-caused delays, and in some cases indefinite holds, when ordering interconnection trunks from Qwest. AT&T Brief at p. 5. AT&T has proposed an incentive that will ensure that Qwest, the entity in sole control over its service quality, meets its interconnection obligations. Id. The incentive is provided in the form of a common contract indemnity provision used when one party's business must rely heavily upon timely, reliable delivery of a product from another party. Id. AT&T requests that the Commission approve this indemnity proposal to incent timely performance (AZ Exhibit 2 ATT 4.1) for inclusion in the SGAT as follows:

> 7.1.1.1 Qwest will provide to CLEC interconnection at least equal in quality to that provided to itself, to any subsidiary, affiliate, or any other party to which it provides interconnection. Notwithstanding specific language in other sections of this SGAT, all provisions of this SGAT regarding interconnection are subject to this requirement. In addition, Qwest shall comply with all state wholesale and retail service quality requirements.
>
> 7.1.1.1.2 In the event that Qwest fails to meet the requirements of Section 7.1.1.1, Qwest shall release, indemnify, defend and hold harmless CLEC and each of its officers, directors, employees and agents (each an "Indemnitee") from and against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated including, but not limited to, costs and attorneys' fees.
>
> Qwest shall indemnify and hold harmless CLEC against any and all claims, losses, damages or other liability that arises from Qwest's failure to comply with state retail or wholesale service quality standards in the provision of interconnection services.

297. Qwest argued that AT&T's request for additional indemnification commitments is unfounded. Qwest Brief at p. 11. Qwest, in Section 5.9 of the SGAT, has made extensive indemnification commitments already and that a separate indemnification provision would be duplicative and may even create confusion regarding Qwest's obligations. Id. Qwest is also engaged in a separate series of workshops in Arizona on a Performance Assurance Plan ("PAP") which will result in similar self-executing fines against Qwest when performance drops below set levels. AT&T, however, was not a participant in the Arizona workshops on the development of the PAP. Qwest submits that this issue be deferred to the on-going workshops addressing post-entry performance assurance. Id. at p. 12.

b. Discussion and Staff Recommendation

298. Staff has addressed the indemnification issue in its report on Checklist Item 14 – Resale. In that report, Staff agreed with AT&T and MCIW that the penalties assessed against Qwest under its Performance Assurance Plan and the Service Quality Plan Tariff were separate and distinct plans and should be applied independently of one another. Under Interconnection, Performance Assurance Plan penalties reflect Qwest's failure to provide service parity to wholesale customers ("CLECs") and those penalty amounts are awarded to the individual

CLECs. Also, Staff recommended that the indemnification language contained in Qwest's SGAT be reviewed in the final General Terms and Conditions workshop to determine whether consensus can be achieved.

DISPUTED ISSUE NO. 2: Whether Qwest is redefining interconnection trunks as entrance facilities such that it wrongfully dictates where CLECs must interconnect and access UNEs? (SGAT Section 7.1.2.1)

a. Summary of Qwest and CLEC Positions

299. AT&T argued that there were two issues associated with SGAT Section 7.1.2.1. The first issue AT&T is concerned with is Qwest's attempt to deny CLECs the right to determine their points of interconnection in the Qwest network. AT&T Brief at p. 7. In its SGAT and testimony, Qwest redefines interconnection trunks as newly described "entrance facilities, [which] are high speed digital loops." Id. AT&T and other CLECs have, for some time and in accordance with the Act, designated their chosen points of interconnection, and paid for interconnection trunks that run from their points of presence ("POP") to the designated point of interconnection ("POI") in the Qwest network. Id. at p. 7-8. It now appears that Qwest's SGAT completely removes that option through its definition of interconnection via loop-type "entrance facilities." Id. at p. 8. Dedicated trunks are technically feasible means of obtaining interconnection or access to UNEs and Qwest should not now be attempting to dismantle interconnection trunks into loops and transport thus limiting the CLEC POI via "entrance facilities" to the CLEC switch. Id. at p. 9.

300. Regarding the second issue, AT&T argues that Qwest is attempting to prohibit the use of interconnection trunks for access to UNEs. AT&T Brief at p. 7. Qwest states: "Entrance Facilities may not be used for interconnection with unbundled network elements." Id. at p. 9. Qwest again is increasing the cost and also decreasing efficiency for CLECs. Id. AT&T does not contend that CLECs should not pay the appropriate rates for access to UNEs when employing interconnection trunks to access those UNEs but that it should be allowed, consistent with the law, to access UNEs by any technically feasible means, including interconnection trunks. Id. at p. 11. AT&T proposes the following re-write language for Section 7.1.2.1:

> 7.1.2.1 ~~Entrance Facility~~Leased Facilities. Interconnection may be accomplished through the provision of ~~a~~—DS1 or DS3 ~~entrance facility~~dedicated transport facilities. ~~An entrance facility extends from the Qwest Serving Wire Center to CLEC's switch location or POI. Entrance facilities may not extend beyond the area served by the Qwest Serving Wire Center. The rates for entrance facilities are provided in Exhibit A. Qwest's Private Line Transport service is available as an alternative to entrance facilities, when CLEC uses such Private Line Transport service for multiple services. Entrance Facilities may not be used for interconnection with unbundled network elements~~ Such transport extends from the Qwest switch to the CLEC's switch location or the CLEC's POI of choice.

301. Sprint argued that Qwest's SGAT undermines CLECs' ability to enter the Arizona market by forcing interconnecting carriers to interconnect to Qwest's facilities at more than one POI per LATA. Sprint Brief at p. 18. This requirement directly conflicts with the Act and the FCC's regulations, which permit CLECs to interconnect with the ILEC in any technically feasible manner and at no more than a single point in the LATA. Id. The Commission must require Qwest to open its network to competitors, specifically allowing CLECs to interconnect at a single POI per LATA, even when local tandems serve the same end office used by the CLEC's customer. Id. at p. 21.

302. Qwest stated that it is willing to agree to adopt the resolution achieved by the Washington Commission such that access to UNEs will be allowed. Qwest Brief at p. 18.

b. Discussion and Staff Recommendation

303. Qwest has agreed to the adoption of the Washington Order's resolution of this issue which is to allow the CLEC to interconnect at any technically feasible POI chosen by the CLEC, including for the purpose of interconnection with UNEs.[1] Specifically, the Washington Order stated that Qwest must provide in the SGAT interconnection through entrance facilities at a POI determined by the CLEC, including for the purpose of access to UNEs. Id. at p. 4. Staff agrees with Qwest's position to adopt the Washington Order. Therefore, Staff recommends that Qwest revise its SGAT Section 7.1.2 to reflect this commitment.

DISPUTED ISSUE NO. 3: Whether Qwest's Expanded Interconnection Channel Termination (EICT) charges for its interconnection at the CLEC collocation point of interconnection violate the Act? (SGAT Section 7.1.2.2 & 7.3.1.2)

a. Summary of Qwest and CLEC Positions

304. AT&T argues that Qwest's position is inconsistent with the law and it should have to pay for interconnection on its side of the POI. AT&T March 28, 2001 Brief at p. 11. Qwest proposes to charge for the wires it calls the Expanded Interconnection Channel Termination ("EICT") which are Qwest's physical connection to the CLEC's collocation equipment when collocation is the method used to interconnect to Qwest's network. Id. The CLEC collocation in this instance serves as its point of interconnection, and the law requires that Qwest meet the CLEC at that point. Id. Because it is Qwest's legal obligation to take the traffic from the CLEC's POI or collocation space in this instance, it is illegal, unjust and unreasonable for Qwest to shift the financial burden through EICT charges to the CLEC. Id. Therefore, AT&T propose the Commission modify Section 7.1.2.2 as follows:

[1] In the Matter of the Investigation Into U S WEST COMMUNICATIONS, Inc.s Compliance with Section 271 of the Telecommunications Act of 1996, Washington Utilities and Transportation Commission Docket No. UT-003022, et al, Fifteenth Supplemental Order, Commission Order Addressing Workshop Two Issues: Checklist Items Nos. 1, 11 and 14. ("Washington Order").

7.1.2.2 Collocation. Interconnection may be accomplished through the Collocation arrangements offered by Qwest. The terms and conditions under which Collocation will be available are described in Section 8 of this Agreement. ~~When interconnection is provided through the Collocation provisions of Section 8 of this Agreement, the Interconnection Tie Pair (ITP) Expanded Interconnection Channel Termination rate elements, as described in Section 9 7.3.1.2.1 and will apply in accordance with Exhibit A. The rates are defined at a DS0, DS1 and DS3 level.~~

305. Qwest stated that is prepared to accept the recommendation in the Washington Draft Order, which essentially provides a "bill and keep" arrangement for the respective parties. Qwest Brief at p. 20.

b. **Discussion and Staff Recommendation**

306. In its Proposed Findings of Fact and Conclusions of Law, Staff noted that Qwest has agreed to the adoption of the Washington Order regarding EICT charges, which should satisfy AT&T's and WorldCom's concerns. Specifically, the Washington Order stated that Qwest should be responsible for the cost of all facilities on its side of the POI. The Washington Order required Qwest to remove the application of EICT rate elements from the SGAT. CLECs do not charge Qwest for this connection when they interconnect to Qwest in CLEC premises, and it is inappropriate for Qwest to charge CLECs in this instance. Moreover, Qwest should also be required to remove any other rate elements for the cost of facilities on its own side of the point of interconnection.

307. In its Comments to Staff's Proposed Findings of Fact and Conclusions of Law, AT&T states that the ACC should specifically adopt the Washington Commission's findings on this issue. AT&T noted that these findings and resolution are consistent with the law and many previously approved interconnection agreements with Qwest. AT&T Comments at p. 3. AT&T also stated that the Report should state that Qwest must affirmatively modify its SGAT to be consistent with the Washington resolution. AT&T Comments at p. 3.

308. Staff reiterates that it is recommending adoption of the Washington Commission Order's resolution of this issue. Accordingly Qwest should modify its SGAT to be consistent with the Washington Commission's resolution, which Staff recommends this Commission adopt.

DISPUTED ISSUE NO. 4: Whether the use of mid-span arrangements to access UNEs are allowed? (SGAT Section 7.1.2.3)

a. **Summary of Qwest and CLEC Positions**

309. AT&T argued that the language in SGAT Section 7.1.2.3 prohibits the use of mid-span meet arrangements to access unbundled network elements. AT&T Brief at p. 12. In order to allow competitors to make the most efficient use of a mid-span meet, Qwest's SGAT should be revised to eliminate the prohibition against using mid-span arrangements to access unbundled elements. Id.

310. AT&T also stated that it refuted Qwest's claim that the FCC prohibited the use of mid-span arrangements or interconnection trunks for access to unbundled elements in Paragraph 553 of the *First Report and Order.* Id. at p. 13. Rather, the FCC's concern was not to prohibit the use of mid-span meet arrangements for access to UNEs, but rather its Paragraph 553 clarifies that when a meet point arrangement is used for access to UNEs the CLEC should bear 100 % of the economic costs associated with that use. Id. As stated by the FCC in ¶ 553:

> In a meet point arrangement each party pays its portion of the costs to build out the facilities to the meet point. We believe that although the Commission has authority to require incumbent LECs to provide meet point arrangements upon request, such an arrangement only makes sense for interconnection pursuant to section 251(d)(2) but not for unbundled access under section 251(c)(3). New entrants will request interconnection pursuant to section 251(c)(2) for the purpose of exchanging traffic with incumbent LECs. In this situation, the incumbent and the new entrant are co-carriers and each gains value from the interconnection arrangement. Under these circumstances, it is reasonable to require each party to bear a reasonable portion of the economic costs of the arrangement. In an access arrangement pursuant to section 251(c)(3), however, the interconnection point will be a part of the new entrant's network and will be used to carry traffic from one element in the new entrant's network to another. *We conclude that in a section 251(c)(3) access situation, the new entrant should pay all of the economic costs of a meet point arrangement.*

Id. AT&T states that it is clear from the last sentence of this passage that the FCC did recognize that a meet point arrangement could be used for access to UNEs. Id. To the extent the CLEC, however, uses the facilities associated with the meet point arrangement for such access, it must pay the UNE rate for using that portion of the facility that is the ILEC's. Id. AT&T does not deny that CLECs should pay a fair price for the portion of the connecting trunks to the meet point arrangement that are used for access to UNEs and therefore requests that Qwest be required to delete the prohibition against using meet point arrangements for access to UNEs. Id. at p. 14.

311. MCIW stated that a mid-span meet POI that is used by a competitive local exchange carrier and Qwest for interconnection, to the extent there is capacity available, should be available to a CLEC and Qwest to provide other types of local connections contained in the SGAT, such as ancillary trunks, E911 trunks and connections to UNEs. MCIW Brief at p. 4. MCIW proposed language to address four designs for a mid-span meet POI. Id. The first design is a standard meet point arrangement. Id. The second design addresses the circumstances where the CLEC provides fiber to a Qwest building and Qwest takes the fiber into its building and terminals within the building. Id. The third design addresses the opposite circumstances from the second design. Id. The fourth design addresses the circumstances where the CLEC and Qwest each provide 2 fibers (or half of the facilities from point A to point B), where each already has fiber to each building, and parties want to take advantage of those facilities. Id. This fourth

design provides for needed redundancy to protect both CLEC and Qwest customers from network outages as Qwest's wholesale mid-span product offering fails to provide that redundancy and is therefore an inferior product. Id. at p. 5-6.

312. MCIW also stated that SGAT Section 7.1.2.3 should be broadened to encompass all technically feasible types of meet point arrangements as described in MCIW's proposed mid-span meet POI language. Id. at p. 6.

313. MCIW argued that the language in SGAT Section 7.1.2.3 that prohibits the use of mid-span meet arrangements to access UNEs. Id. at p. 6. In order to allow competitors to make the most efficient use of a mid-span meet, Qwest's SGAT should be revised to eliminate the prohibition against using mid-span arrangements to access unbundled elements. Id. MCIW stated that the FCC's concern in ¶ 553 of the *First Report and Order* was not to prohibit the use of mid-span meet arrangements for access to UNEs, but rather its ¶ 553 clarifies that when a meet point arrangement is used for access to UNEs the CLEC should bear 100% of the economic costs associated with that use. Id. at p. 6-7. MCIW recommends that Qwest be required to delete the prohibition against using meet point arrangements for access to UNEs from SGAT Section 7.1.2.3. Id.

314. Qwest stated that it will accept the recommendation suggested in the Washington *Draft Order*, which does not preclude charging CLECs for the portion of a mid-span meet that is used for access to UNEs to permit cost recovery by Qwest. Qwest Brief at p. 20.

b. Discussion and Staff Recommendation

315. In its Proposed Findings of Fact and Conclusions of Law, Staff noted that Qwest had agreed to the adoption of the Washington Order regarding the use of mid-span arrangements to access UNEs. See Washington Order at p. 6. Specifically, the Washington Order stated that Qwest must eliminate from the SGAT the prohibition against using mid-span arrangements to access UNEs. This does not preclude Qwest charging CLECs for the portion of a mid-span meet that is used for UNEs. Therefore, Staff concurs with Qwest's adoption of the Washington Order for purposes of this disputed issue. Staff believes that this also resolves the CLEC's concerns.

316. In its Comments to Staff's Proposed Findings of Fact and Conclusions of Law, WorldCom states that the Commission should require Qwest to include language within its SGAT that was proposed by WorldCom and discussed in paragraph 311 of the Staff's Report. WorldCom Comments at p. 3. WorldCom states that recently in Colorado, the Hearing Officer adopted WorldCom's proposed midspan meet language. Id. WorldCom further stated that while the Washington Commission did not adopt WorldCom's proposed language, it specifically stated that it believed the language to be unnecessary but that its decision should not be construed to mean that the Washington Commission rejected those methods. Id.

317. WorldCom states that it has demonstrated that it currently has technical feasibility language in its existing interconnection agreements but that Qwest has failed to agree to enter into a mid-span arrangement under those contracts. Id. Including such language will avoid the

interpretational issues WorldCom currently experiences with Qwest under broad technical feasibility language in existing agreements. Id.

318. While WorldCom's concerns are duly noted, Staff would note that Qwest has since agreed to allow the CLECs to use mid-span meet arrangements to access UNEs and to the Washington Commission resolution of this issue. The Washington Commission at p. 6, para. 23, of its Order stated: "Our decision that Qwest need not include WorldCom's proposed interconnection methods in the SGAT should not be construed to mean that we reject those methods. In order to meet the requirements of Checklist Item 1, Qwest must demonstrate that it makes interconnection available at any technical feasible point, using any technically feasible method, including those proposed by WorldCom or other carriers if they are found to be technically feasible." Id.

319. Nonetheless, Qwest has agreed to accept the Washington Commission's resolution of this issue which clearly contemplates the methods proposed by WorldCom, among others. Therefore, Staff believes that there is no reason for Qwest not to set these methods out as requested by WorldCom. Staff recommends that Qwest revise its SGAT to include the WorldCom proposed language as discussed in paragraph 311 above.

DISPUTED ISSUE NO. 5: Whether CLECs can choose the most efficient means of interconnection such as the use of Single Point of Interconnection (SPOPs)?

a. Summary of Qwest and CLEC Positions

320. AT&T and MCIW argue that Qwest is unwilling to permit CLECs to choose the most efficient point of interconnection as required by the Act and FCC regulations. AT&T Brief at p. 15; MCIW Brief at p. 8. Qwest's Single Point of Presence ("SPOP") product designed to a single point of interconnection per LATA, unlawfully restricts the CLECs' ability to interconnect at any technically feasible point in Qwest's network. Id. The SPOP product dictates to the CLEC that its point of interconnection ("POI") will be its point of presence ("POP") and not at Qwest's wire center (as has been traditionally considered the CLEC POI or any other point the CLEC would choose) and that this unlawfully limits the CLECs' ability to interconnect at the place of its choosing. Id. at p. 15-16. Furthermore, the SPOP impedes interconnection at the access tandem, among other places, to cases where a local tandem is not available to get to an end office. Id. at 16. AT&T requests that Qwest recast its SPOP product offering and its SGAT to eliminate restrictions on the CLECs' ability to designate whatever the point or points of interconnection they deem to be most efficient. Id. at p. 17.

321. MCIW went on to state that CLECs have experienced difficulties with Qwest's personnel in the field that employ the SPOP product offerings or policies to the exclusion of all else, including interconnection agreements that otherwise permit the type of interconnection the SPOP product disallows. MCIW Brief at p. 9. It appears that if CLECs want to enjoy the right to a single POI per LATA, it can only do so if it surrenders other rights it has under its interconnection agreement and under the Act. Id.

322. Sprint argued that Qwest's SPOP only allows CLECs to interconnect at one point per LATA if no local tandems are available to serve the desired end offices even though Qwest admits that interconnection at the access tandem is technically feasible even where local tandems are available. Sprint Brief at p. 12. Qwest's policy, therefore, contravenes the FCC's command that competing carriers be permitted to interconnect at a single point, on terms and conditions that are just, reasonable and nondiscriminatory. Id.

b. Discussion and Staff Recommendation

323. Staff believes that this issue has already been resolved. In its Proposed Findings of Fact and Conclusions of Law, Staff referred parties to its Report on Checklist Item 13 wherein it was found that Qwest had agreed to allow CLECs the most efficient means of interconnection, including a single point of interconnection per LATA. Therefore, Staff deemed this issue to be no longer in dispute.

324. In its Comments to Staff's Proposed Findings of Fact and Conclusions of Law, AT&T stated that the dispute actually related to Qwest's actual implementation of the single point per LATA requirement remains in dispute. Comments at p. 4. AT&T states that Qwest has created its Single Point of Presence ("SPOP") product, which is separate and apart from what Qwest's SGAT says. Id. AT&T further states that the record demonstrates that Qwest's SPOP product offering does not comply with the law. AT&T claims that Qwest illegally demands that if the CLEC wants a single POI per LATA, the CLEC must surrender its right to choose its POI to Qwest, among other things. Comments at p. 4.

325. Staff is not sure that it understands AT&T's actual concern here. The parties have agreed in the context of the 271 Workshops that to the extent the SGAT conflicts with a Qwest product or policy statement, the SGAT or parties interconnection agreement will prevail. Thus, if the SGAT requires Qwest to allow the CLECs the most efficient means of interconnection, including a single point of interconnection per LATA without restriction, and a product or policy offering then purports to impose restrictions in addition to those contained in Qwest's SGAT, the SGAT language would prevail.

DISPUTED ISSUE NO. 6 Whether Qwest's attempt to control the establishment of one & two way trunk groups violates § 271 of the Act? (SGAT Section 7.2.2.1.2.1)

a. Summary of Qwest and CLEC Positions

326. AT&T argues that Qwest changed its SGAT to make permissive the establishment of one-way or two-way interconnection trunk groups for the exchange of traffic. AT&T Brief at p. 17. When AT&T, for example, seeks to install one-way trunking to a particular tandem switch in Qwest's network, Qwest will insist on installing the corresponding one-way trunking from every end-office to the AT&T switch causing the unnecessary and inefficient use and exhaust of AT&T's switch terminations as well as one-way trunks. Id. This conduct undermines the CLEC's right to select points of interconnection and to employ either one-way or two-way trunking. Id. AT&T proposes that the Commission order Qwest to incorporate the following sentence into SGAT Section 7.2.2.1.2.1:

> 7.2.2.1.2.1 One-way or two-way trunk groups may be established. However, if either Party elects to provision its own one-way trunks for the delivery of Exchange Service (EAS/Local) traffic to be terminated on the other Party's network, the other Party must also provision its own one-way trunks. The point or points of interconnection for such one-way trunk groups shall be those designated by the CLEC.

Id. at p. 18. AT&T's proposal ensures that "new entrants may select the 'most efficient points at which to exchange traffic with incumbent LECs, thereby lowering the competing carriers' costs of, among other things, transport and termination.". Id. *SWBT Texas 271 Order at ¶ 74.*

327. Sprint argued that Qwest's SGAT flatly denies competing carriers the ability to utilize efficient interconnection trunking, and seeks to force competing carriers needlessly to build inefficient "overlay" local networks that mirror old incumbent networks. Sprint Brief at p. 13. Rather than permit competing carriers to utilize unused capacity on existing, efficient, long distance networks to carry local/EAS traffic, Qwest has attempted to force such carriers to build wasteful and duplicative "local-only" networks. Id. at p. 14-15. Forcing competing carriers to employ local-only trunks to carry local/EAS traffic deprives CLECs from using trunks efficiently where existing excess capacity would permit the combination of local and interLATA traffic, and prohibit CLECs from making independent decisions about efficient interconnection. Id. at p. 18. Qwest's policy therefore will result in underutilized trunks subjecting the competing carrier to adverse charges including high deposits that Qwest imposes which is patently discriminatory and does not constitute just, reasonable or nondiscriminatory interconnection. Id.

328. Qwest states that it offers CLECs the opportunity to utilize either one-way or two-way trunks to carry their traffic. Qwest Brief at p. 4. Where one party elects to terminate traffic on the other party's network using one-way trunking, the other party must also provision one-way trunking. Id. Qwest argued that if a CLEC may choose its own POI for its one-way trunks, Qwest should be entitled to do the same. Id. Similarly, if Qwest must provision one-way trunks for its own traffic, and pay for those trunks, it should be permitted to determine the most cost-effective and efficient means for it to provide that trunk. Id.

329. Qwest stated that AT&T's demands go beyond the bounds of reason and fairness. Id. at p. 5. Qwest should be allowed to choose the POI for the one-way carrying traffic from Qwest to the CLEC and the route that traffic follows. Id. When a CLEC chooses one-way trunks, the CLEC owns and bears the entire costs of its trunking to Qwest, and Qwest owns and bears the entire cost of its trunking that delivers Qwest traffic. Id. Because Qwest owns these one-way facilities, and must pay for them, it must be given some control in the configuration of those facilities to ensure that its own costs are minimized. Id. Nothing in the Act gives the CLEC the right to choose the incumbent's POI for purposes of returning one-way traffic nor the right to dictate the route of Qwest's one-way trunks.

b. Discussion and Staff Recommendation

330. Staff believes that Qwest should have the ability to make decisions concerning interconnection points and routing for one-way trunks that they have to build because CLECs themselves have chosen to interconnect with Qwest through one-way trunks. Should one-way trunking from Qwest cause inefficient use of the CLEC network, CLECs should consider it in exercising their unilateral right about where and how to interconnect with Qwest's POIs. AT&T's concern over the use of one-way trunking in a retaliatory manner is a legitimate one and one that should be dealt with in the General Terms and Conditions workshops where relief from retaliatory action in general should be addressed.

DISPUTED ISSUE NO. 7: Whether Qwest's 50 mile limitation on direct trunk transport violates the CLECs right to choose the most efficient point of interconnection? (SGAT Section 7.2.2.1.5)

a. Summary of Qwest and CLEC Positions

331. AT&T argued that Qwest proposal arbitrarily turns all interconnection trunks over 50 miles into mid-span meet arrangements where neither the CLEC nor Qwest have facilities in place and artificially limits its interconnection obligation under the Act and shifts the burden to build Qwest's network to the CLEC. AT&T Brief at p. 18. Qwest has not presented even a single real case wherein it was required to construct such extremely long direct trunk transport (a/k/a interconnection trunks), nor has it presented even a shred of evidence that it would not recover the costs to do so. Id. at p. 19. Therefore, AT&T recommends the Commission remove SGAT section 7.2.2.1.5.

332. Qwest argued that although the Act requires incumbent LECs to permit CLECs the opportunity to interconnect with an incumbent's network at any technically feasible point, that obligation is not without reasonable limits. Qwest Brief at p. 6. Qwest proposed language that allows the parties to construct transport facilities to the midpoint of a direct span in excess of 50 miles, where neither party has the facilities existing in its network nor can they agree on who should provide them. Id. at p. 8.

333. AT&T objected to the inclusion of this section, arguing that because interconnection is technically feasible at any point in a LATA, Qwest should be obligated to bear the burden of constructing such facilities on behalf of CLECs for hundreds of miles if necessary. Id. Qwest, however, does not object to the placement of such transport facilities across a LATA. Id. Qwest simply asks that the CLEC share in the responsibility of installing such facilities. Id.

b. Discussion and Staff Recommendation

334. The FCC has specifically acknowledged that some reasonable end point to an incumbent LEC's obligation in this context is appropriate, stating, "[r]egarding the distance from an incumbent LEC's premises that an incumbent should be required to build out facilities for meet point arrangements, we believe that the parties and state commissions are in a better position than the Commission to *determine the appropriate distance that would constitute the*

required reasonable accommodation of interconnection." Id. at p. 8. *Local Competition Order* at Paragraph 553. Qwest suggests that a reasonable limit should be 50 miles, and requests that the Commission approve the language in Section 7.2.2.1.5 of Qwest's SGAT. Id. at p. 9. In its Proposed Findings of Fact and Conclusions of Law, Staff noted that Qwest had failed to provide any evidence to support the 50 mile limitation and, therefore, Staff agreed with AT&T's recommendation to delete SGAT Section 7.2.2.1.5 at this time. Staff suggested in its Proposed Findings of Fact and Conclusions of Law that the matter be considered in Phase III of the Wholesale Pricing Docket.

335. In its Comments on Staff's Proposed Findings of Fact and Conclusions of Law, Qwest stated that Direct Trunked Transport ("DTT") in conjunction with entrance facilities provides CLECs with the ability to connect the CLEC's end office switch to a Qwest tandem or a Qwest end office switch. Id. at p. 6. Qwest stated that it has agreed to provide CLECs with DTT without any limitation of length, so long as Qwest has available facilities. Id. Qwest proposed a limitation on the length of DTT facilities of 50 miles that Qwest must construct on CLEC's behalf when no spare DTT facilities are available. Comments at p. 7.

336. Qwest stated that its cost of laying fiber is approximately $50,000 per mile. Qwest states that the Cost Docket does not provide Qwest with the protection that it seeks. Comments at p. 8. Qwest is concerned that the CLECs will abuse this provision, effectively asking Qwest to build when it is simply not economical to do so. Comments at p. 8. Qwest states that the Cost Docket will calculate average rates and will not allow Qwest to recover its costs associated with high cost scenarios. Comments at p. 8. Qwest states that the current language incents CLECs to order DTT in a remote location to serve one customer, because Qwest, not the CLEC, will pay the bill. Id.

337. Qwest asks the Commission to approve SGAT Section 7.2.2.1.5 as Colorado, Oregon and Washington did, or adopt the language in the Utah and Wyoming Commission recommendations. The SGAT language adopted by the Utah and Wyoming Commissions reads as follows:

> If Direct Trunked Transport is greater than fifty (50) miles in length, and existing facilities are not available in either parties network, and the parties cannot agree as to which Party will provide the facility, the Parties will bring the matter before the Commission for resolution on individual case basis.

338. Upon reconsideration, given that all parties agree that the circumstances involving Qwest having to construct DTT in excess of 50 miles should be rare, Staff believes that the approach taken by the Utah and Wyoming Commissions is reasonable and recommends its adoption in Arizona.

DISPUTED ISSUE NO. 8: Whether Qwest must allow Multi-Frequency (MF) signaling where its switches are not SS7 equipped? (SGAT Section 7.2.2.6.3)

a. Summary of Qwest and CLEC Positions

339. AT&T proposed SGAT Section 7.2.2.6.3 to address the need for an MF signaling option in two situations; the first is related to switching where the Qwest switch itself could not accommodate SS7 signaling, and the second situation is where the Qwest central office switch does not have SS7 diverse routing. AT&T Brief at p. 19-20. While Qwest accepted AT&T's proposal covering the first situation, it rejected the language covering the second situation where the Qwest's switch lacks SS7 diverse routing. Id. at p. 20. The part of the provision in dispute clearly applies only where the Qwest switch does not have sufficient diversity in the signaling network such that the CLEC customers would be left stranded if a signaling failure occurred, while the Qwest customers could continue to make calls. Id. at p. 20-21. AT&T proposed the following language:

> 7.2.2.6.3 MF Signaling. Interconnection trunks with MF signaling may be ordered by the CLEC if the Qwest Central Office Switch does not have SS7 capability or if the Qwest Central Office Switch does not have SS7 diverse routing.

340. This lack of redundancy, and parity, has created a barrier to competition because some customers have refused to switch to CLECs, in particular AT&T, as a result of this lack of diversity. Id. at p. 21. AT&T requests the Commission adopt all of its proposed language. Id.

341. Qwest argued that AT&T has provided no authority whatsoever that would require Qwest to establish this type of signaling-link redundancy. Qwest Brief at pps. 16-17. Qwest has searched for an FCC order or court decision that requires an incumbent to provide multi-frequency trunks, and has found nothing. Id. at p. 17. The FCC has been clear that BOCs are only required to meet the "reasonably foreseeable" demand of CLECs even for checklist items. Id. Qwest's position is that in the very unlikely event that this situation should occur, Qwest would place the repair of the failed signaling link on the highest priority and the signaling would be restored as soon as possible, reducing any parity issue to the level of de minimus. Id. Qwest is not refusing to provide multi-frequency trunks outright in that if a potential AT&T customer is actually concerned about this hypothetical situation, AT&T could request this capability. Id. Qwest is simply asking that if AT&T or any other CLEC believes that it is necessary, it submit a bona fide request for this kind of extraordinary level of signaling diversity and Qwest will consider such requests on a case-by-case basis. Id.

b. Discussion and Staff Recommendation

342. Qwest has agreed to the addition of language in SGAT Section 7.2.2.6.3, which Staff believes addresses AT&T's concerns. Qwest will add the following phase at the end of this section:

or if the Qwest Central Office Switch does not have SS7 diverse routing.

343. Staff supports the inclusion of this language into the SGAT. Staff no longer believes this issue is in dispute and considers this issue to be resolved.

DISPUTED ISSUE NO. 9: Whether Qwest's policies and SGAT provisions on CLEC interconnection forecasting and deposits are unjust, unreasonable and not at parity with the way Qwest treats itself? (SGAT Section 7.2.2.8.6 &7.2.2.8.6.1)

a. Summary of Qwest and CLEC Positions

344. AT&T argued that Qwest, while insisting upon CLEC trunk forecasting, refuses to build to the CLEC forecast or its own forecast unless certain conditions are met as follows: (a) in a dispute over the CLEC forecast versus Qwest's own forecast, Qwest will make capacity available for the lower forecast (presumably its own forecast); (b) where the CLEC's trunk utilization over the preceding 18-month period is 50 % or less of forecast for each month, Qwest will likely require a 50 % deposit of the estimated capital cost to provision the forecasted trunks before it builds to the lower forecast; (c) Qwest will return the 50 % deposit if the CLEC's state-wide average trunk forecast to usage ratio exceeds 50 %, and if the usage does not exceed 50 %, Qwest will keep a pro rata share of the deposit; (d) if Qwest fails to have forecasted capacity available when the CLEC orders trunks, Qwest will refund a pro rata portion of the deposit; and (e) Qwest will build to the higher forecast, and may, at its sole discretion require a 100 % refundable deposit of the estimated cost to provision the new trunks. AT&T Brief at p. 21.

345. AT&T stated that Qwest is now using a metric that compares forecasted utilization instead of actual utilization for the purposes of determining deposits for trunking. Id. at p. 22. Since forecasts are always looking to the future, they always project higher numbers of trunks, especially for CLECs who are growing quickly. Id. The "utilization" measured in this way disadvantages fast growing CLECs. Id. Basically, Qwest is trying to apply a metric to fast growing CLECs that it doesn't even meet itself. Id. This provision is drafted such that it helps no party and actually creates discriminatory trunking and utilization requirements for CLECs that Qwest itself is not held to and should, therefore, be deleted from the SGAT. Id. at p. 23.

346. MCIW argued that it had concerns about Qwest's LIS trunking forecasting requirements described in Section 7.2.2.8. MCIW March 28, 2001 Brief at p. 11. It has been MCIW's experience that such general language, as proposed by Qwest, does not adequately describe or outline the extensive process Qwest imposes on CLECs for forecasting. Id. MCIW is concerned that such broad language and references to Qwest's forecasting "processes" do not represent the true burden of the obligation Qwest imposes on CLECs for forecasting. Id. at p. 12. Such a burden is anti-competitive and goes against the purpose of providing forecasts in the spirit of cooperation and true joint planning. Id. Therefore, MCIW does not support the forecasting provisions in various sections of the SGAT because, in addition to clarity problems, the provisions lack uniformity. Id.

347. MCIW also objects to Qwest's forecasting requirements for LIS trunks. Id. at p. 13. The SGAT does not require Qwest to provide its relevant trunk forecast to CLECs and absent some sense of where Qwest will augment its network based upon all forecasts received by

Qwest, CLECs cannot plan where to target marketing activities. Id. The "standard" Trunk Forecast Forms and the "standard" forecast timelines are not standard, but unique to Qwest and an unnecessary hurdle to accurate and cooperative business planning. Id. Despite the additional time and resources required by MCIW to report through such a system, Qwest has not agreed to allow MCIW to provide forecasts using the industry standard gross total trunk format. Id. at p. 14. Additionally, MCIW's experience that Qwest anticipates the network build by "freezing" the submitted forecasts for a 6-month period. Id. Qwest has refused to accept modifications and updates during such a frozen period. Id. Conversely, Qwest's standard frozen forecast process does not allow CLECs to downsize potential trunking needs through quarterly forecasts. Id. MCIW claims it is convinced that a key cause of the under-utilization of Qwest's LIS trunks is due to the requirements imposed by Qwest as part of its own LIS forecasting process. Id. at p. 15.

348. MCIW also objects to the deposit proposal for trunk forecasting and under-utilization. Id. at p. 15. The deposit system places a disproportionate obligation and risk on the CLEC for trunk forecasting. Id. MCIW requests language accounting for how the deposit will be held, tracked and reciprocated while also having language pertaining to interest provisions and how the amount will be refunded with proper utilization. Id. MCIW objects to the addition of monetary exchange relating to forecasting without the specific requirements of forecasts incorporated into the SGAT. Id. MCIW also asks for Qwest's mutual obligation since Qwest has made no such offer in response to MCIW's supplemental testimony. Id. at p. 15-16.

349. Qwest argued that the purpose of forecasting is to assure sufficient capacity on Qwest's network to avoid blocked calls, and encourage efficient use of resources. Qwest Brief at p. 12. Once a CLEC submits its forecast, however, it has no obligation to order interconnection trunks consistent with its forecast which could leave Qwest in the unacceptable position of having incurred cost to build new facilities, which then lay underutilized, or worse, dormant or dark. Id. In essence, the CLEC is not harmed in any way by submitting inaccurate forecasts. Id. Qwest has attempted to resolve the impasse by agreeing: (1) to build to the lower of the two forecasts (typically Qwest's) with no charge; and (2) if a CLEC has failed to utilize its trunks for **18 continuous months** at a rate of at least 50%, Qwest will still build to CLECs higher forecast if CLEC pays a deposit, with the deposit being refunded according to actual trunk usage thereafter. Id. at p. 13.

350. Qwest went on to state that while CLECs demand that Qwest build to forecasts, there is no financial mechanism by which Qwest can recover its cost of constructing facilities likely to go unused without obtaining a deposit. Id. at p. 13. The Act entitles Qwest to recover its costs of providing interconnection. Id. at p. 14. Qwest's requirement that it receive some compensation for trunks it is asked to build ensures that Qwest recovers its costs as the Act requires. Id.

351. Qwest also stated the process should provide CLECs the incentive to provide Qwest accurate forecasts. Id. at p. 14. Qwest already has a tremendous incentive to act on CLEC's forecasts; namely, the very real and severe self-executing penalties through the PAP if Qwest fails to provision trunks in a timely manner and in sufficient volume to avoid trunk blocking. Id. The repeated failure of CLECs to provide accurate forecasts should lead to

payment of a deposit and, when a deposit is paid, CLECs should be financially responsible if, in the very order where a deposit is required, they continue their history of over-forecasting. Id. at p. 15.

a. **Discussion and Staff Recommendation**

352. The issue here revolves around Qwest's obligation to provide interconnection trunks where Qwest's forecast of a CLEC's needs is lower than the CLEC's own forecast. While Qwest agreed to use the CLEC's forecast, it will require a deposit before doing so. Where the CLEC's trunk utilization over the preceding 18 month period is 50% or less of forecast for each month, Qwest will require a 50% deposit of the estimated capital cost to provision the forecasted trunks before it builds to the lower forecast. The deposit ensures that Qwest is not put at risk of recovery of its installation costs should the CLEC's actual needs prove to be lower than the forecast at issue. While the target Qwest used was 50% of forecasted usage, in its Proposed Findings of Fact and Conclusions of Law, Staff agreed with the Multi-State finding that it should be based on usage of installed trunks and not forecasted trunks.

353. Qwest proposed to return the 50% deposit if the CLEC's statewide average trunk forecast to usage ratio exceeds 50%, and if usage does not exceed 50%, Qwest proposed to keep a pro rata share of the deposit. In its Proposed Findings of Fact and Conclusions of Law, Staff recommended that Qwest should also provide deposit refunds if parties other than the CLEC that made the deposit make use of the facilities. Staff recommended that Qwest modify its SGAT with the addition of language that contains a provision that allows deposit refunds where other use of facilities puts Qwest in the same position it would have been in had the CLEC met the use levels warranting a return of deposit amounts. The following language was adopted in the Multi-State process and Staff supported its addition to Arizona SGAT Section 7.2.2.8.6.2:

> *Where there is a reasonably reliable basis for doing so, Qwest shall include in the trunks-required calculation any usage by others, including but not limited to Qwest itself; of facilities for which that CLEC has made deposit payments. Qwest shall not be required to credit such usage more than once in all the trunks-required calculations it must make for all CLECs in the relevant period.*

354. In its Comments to Staff's Proposed Findings of Fact and Conclusions of Law, AT&T stated that the language proposed by the Multi-State facilitator was too vague and ambiguous to be contract language. Comments at p. 6. AT&T also stated that CLECs will not be in a position to know whether Qwest has properly included "usage by others." Id. WorldCom also stated in its Comments to Staff's Proposed Findings of Fact and Conclusions of Law, that no process has been described in the SGAT that addresses the feasibility of deposit verification and validity. Comments at p. 4. WorldCom also stated that Qwest must be required to provide a foreast to CLECs prior to the provision of a forecast to Qwest. WorldCom also states that to the extent the Commission includes such a deposit policy, Qwest should be required to develop a process and the Commission should review its reliability to determine if it is correctly substantiating Qwest's position that it needs this "deposit" protection to ensure that it does not overbuild. Id. at p. 5. WorldCom stated that it does not have to provide deposits in any other RBOC region in which it has local business. Id. It cites to SWBT in Texas, and states that

SWBT requires no deposit in its 271 SGAT. AT&T proposed the following language in lieu of that proposed by the Facilitator.

> Qwest shall include in the trunks-required calculation any usage by others, including but not limited to Qwest itself, of facilities for which that CLEC has made deposit payments. Qwest shall credit such usage to the same degree and in the same manner that Qwest credits CLEC's usage. In any calendar quarter where Qwest determines that a full refund of deposit amounts to CLEC is not warranted, Qwest shall, no less than thirty (30) days after the end of such quarter, provide CLEC with a report showing all utilization considered by Qwest in its calculation. Such reports shall be subject to audit by CLEC to verify the inclusion of all appropriate usage.

355. Upon further consideration of this issue and the proposed language submitted by AT&T, Staff agrees that the language proposed by the Multi-State Facilitator is vague in certain respects. Staff believes that the language proposed by AT&T is much clearer. Staff, therefore, recommends adoption of the language proposed by AT&T with the following changes to read as follows:

> Qwest shall include in the trunks-required calculation any usage by others, including but not limited to Qwest itself, of facilities for which that CLEC has made deposit payments. Qwest shall credit such usage to the same degree and in the same manner that Qwest credits CLEC's usage. In any calendar quarter where Qwest determines that a full refund of deposit amount to CLEC is not warranted, Qwest shall upon request of the CLEC, no less than thirty (30) days after the end of such quarter, provide CLEC with a report showing how the refund amount (or lack of refund) was calculated. Audits of such amounts may be requested by CLEC to verify the inclusion of all appropriate usage.

356. Further, Staff believes there is merit in some of the additional points made by WorldCom and that changes should be made by Qwest to address these concerns. In addition to the language above, Staff recommends that Qwest modify its SGAT to provide:

> Qwest shall be required to provide a forecast to the CLECs prior to the provision of a forecast by the CLEC to Qwest and the joint planing session. Qwest shall work cooperatively with the CLECs in determining proper volumes of interconnection facilities through joint, cooperative planning sessions.

DISPUTED ISSUE NO. 10: Whether Qwest's demand that CLECs inefficiently use interconnection trunks violates § 271? (SGAT Section 7.2.2.9.3.2)

a. Summary of Qwest and CLEC Positions

357. AT&T argued that Qwest steadfastly refuses to employ the most efficient use of interconnection trunking that would combine all traffic types on the same trunks. AT&T Brief at pps. 23-24. Instead, Qwest demands that CLECs use separate trunk groups for interLATA, 1 + long distance calls and for local calls which increases interconnection cost to CLECs and requires the inefficient use of trunks along with under-utilization problems. Id. at p. 24.

358. AT&T went on to state that the combination of all traffic is technically feasible, and several States have required that Qwest combine such traffic. Id. at p. 24. Furthermore, the Ninth Circuit Court of Appeals has upheld such combination as appropriate. Id. While the FCC has not indicated that co-mingling of local and long distance traffic on interconnection trunks is or should be prohibited, Qwest should allow such combination in its SGAT in order to remove operational inefficiencies and increased costs. Id. To the extent it does not allow such co-mingling, the SGAT is not in compliance with the law because it creates operational and economic barriers and the Commission should disapprove it. Id.

359. Qwest states that it is willing to change the Arizona SGAT language at Section 7.2.2.9.3.2 to permit, expressly, commingling of traffic. Qwest Brief at p. 18. However, until the FCC is clearer on local traffic ratcheting that impacts Federal rates on LEC transport provided to originate and terminate interexchange carrier calls, Qwest will not discount transport charges associated with mixed-use trunk groups. Id. at p. 19-20.

b. Discussion and Staff Recommendation

360. In its Proposed Findings of Fact and Conclusions of Law, Staff likened this issue to Disputed Issue No. 2 above in that the CLECs request that entrance facilities be used to access unbundled network elements and if allowed, CLECs want to "ratchet" such use to secure lower payments for those facilities that would other wise be required. Staff also noted that Qwest had agreed to the adoption of the Washington Order to allow access to UNEs. Qwest has also agreed to modify SGAT Section 7.2.2.9.3.2 to expressly permit commingling of traffic. However, Qwest did not agree to any ratcheting provisions. Staff further noted that the CLECs have failed to distinguish their proposal from situations which the FCC has expressed concern. Therefore, Staff recommended that the ratcheting provisions proposed by AT&T and MCIW should not be adopted at this time.

361. In its Comments to Staff's Proposed Findings of Fact and Conclusions of Law, WorldCom offered up the following hypothetical: assume that WorldCom has purchased Special Access Entrance Facilities from its Point of Presence ("POP") in Arizona to the Qwest Serving Wire Center. Assume further that WorldCom now would like to order DTT through Dedicated Transport UNEs from its POP to another end office, transiting through the Access Serving Wire Center. WorldCom believes that in this instance, the DTT residing in the Special Access Entrance Facility used to reach WorldCom facilities should be ratcheted down so that WorldCom

pays UNE-based DTT rates and does not continue to pay the Special Access rates, or worse yet, pay for both. Comments at p. 6. WorldCom believes that Qwest is over-recovering the cost of these facilities. Id. WorldCom also notes that the Washington Commission in its Order stated: "In the situation where a CLEC uses a DS-3 for both interconnection and access, it should pay a proportionate rate based on the two applicable DS-3 rates. The same principle of proportional pricing should apply in any other circumstance where a service or facility has more that one applicable rate." Id.

362. AT&T also filed Comments on Staff's Proposed Findings of Fact and Conclusions of Law and in those Comments stated that the FCC has not indicated that co-mingling of local and long distance traffic on interconnection is or should be prohibited. Comments at p. 7. AT&T states that to operationally remove inefficiencies and increased costs, Qwest should allow such combination and to the extent it does not, the SGAT is not in compliance with the law. Id.

363. AT&T further expressed concern with the way that Staff characterized the CLEC's position. Comments at p. 8. AT&T states that CLEC's do not seek lower payments, rather they agreed that they should pay the rates associated with obtaining UNEs if allowed the efficiency of using the interconnection trunks to reach the UNE. Comments at p. 8. AT&T also states that the Arizona Commission, and the Ninth Circuit Court of Appeals have already allowed such co-mingling and use of "percent local usage ("PLU") factors. Id.

364. Upon reconsideration of this issue, and given Qwest's agreement to the Washington Commission's resolution of this issue, Staff recommends that Qwest be required to proportionally price such facilities. Staff agrees with the Washington Commission's ultimate resolution of this issue which is contained in their Order at pps. 4-6. The Washington Commission stated as follows:

> "...In other words, Qwest would require a CLEC to choose between its right to interconnect at any technically feasible location and its right to obtain facilities at TELRIC rates. The record shows no technical impediment to the use of a single entrance facility for interconnection and private lines, and that proportional pricing of this facility is fair and reasonable.
>
> ....In the situation where a CLEC uses a DS-3 for both interconnection and access, it should pay a proportionate rate based on the two applicable DS-3 rates. The same principle of proportional pricing should apply in any other circumstance where a service or facility has more than one applicable rate."

Washington Order at p. 5.

365. Staff recommends that Qwest modify its SGAT language as appropriate to provide for proportional pricing of facilities.

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DECISION NO. ______

DISPUTED ISSUE NO. 11: Whether Qwest's failure to allow the CLEC to select its point(s) of technically feasible interconnection violates § 271? (SGAT Section 7.2.2.9.6)

a. Summary of Qwest and CLEC Positions

366. AT&T argued that Qwest demands that CLECs terminate local traffic on either Qwest local tandems or end offices. AT&T Brief at p. 24-25. While Qwest will allow a CLEC conditional interconnection at the access tandem, it will completely deny such interconnection if there exists a local tandem serving a particular end office, apparently even if the local tandem has exhausted capacity. Id. at p. 25. Qwest typically alleges--without proof--that somehow interconnection at the access tandem forces inefficient use of or a threat to its network. Id. Even more remote of a possibility, Qwest implies that CLECs choose interconnection points solely in an effort to increase Qwest's cost—yet, Qwest did not provide even a single instance of such behavior. Id. Thus, Qwest should be ordered to allow interconnection at the access tandem without all the conditions it attempts to place on CLECs in its SGAT and the Commission should adopt AT&T's proposal:

> 7.2.2.9.6 The Parties shall terminate Exchange Service (EAS/Local) traffic ~~exclusively~~ on ~~local~~ tandems or end office switches, at CLEC's option

b. Discussion and Staff Recommendation

367 Qwest agreed to adoption of the Multi-State findings and conclusions on this issue which would allow local traffic to terminate at the access tandem. In its Proposed Findings of Fact and Conclusions of Law, Staff proposed adoption of the same language adopted in the Multi-State process in lieu of 7.2.2.9.6:

> *The parties shall terminate Exchange Access Service (EAS/Local) traffic on tandem or end office switches. When there is a DS1 level of traffic (512 BHCCS) between CLEC's switch and a Qwest End Office switch, Qwest may request CLEC to order a direct trunk group to the Qwest End Office switch. CLEC shall comply with that request unless it can demonstrate that such compliance will impose upon it a material adverse economic or operations impact. Furthermore, Qwest may propose to provide interconnection facilities to the local tandems or end offices served by the access tandem at the same cost to the CLEC as interconnection at the access tandem. If the CLEC provides a written statement of its objections to a Qwest cost-equivalency proposal, Qwest may require it only: (a) upon demonstrating that a failure to do so will have a material adverse affect on the operation of its network and (b) upon a finding that doing so will have n o material adverse impact.*

368. In its Comments on Staff's Proposed Findings of Fact and Conclusions of Law, AT&T stated that the Multi-State Facilitator merely adopted the Washington ALJ's decision and

modified it. Id. at p. 9. However, AT&T states that rather than creating greater clarity, the Facilitator created more confusion. Id. AT&T states that he took what was otherwise a straight-forward resolution and made it more complex and ambiguous. Id. AT&T refers to the difficulty associated with enforcing the Multi-State Facilitator's recommendations. First, the Multi-State Facilitator's language demands that CLECs trunk to end-office switches where there is a DS-1 level of traffic between CLEC's switch and the Qwest End Office switch. Id. AT&T claims that from there he proceeds to create an unclear, ambiguous and unworkable "cost-equivalency proposal" for access to local tandems. Id.

369. AT&T included the following language from the Washington ALJ's decision to support its point:

> The Joint CLECs are persuasive in their argument that interconnection at the access tandem when traffic volumes are low would not impact capacity on Qwest's toll and local networks any more than when no local tandem serves a particular area. More importantly, Qwest has admitted that interconnection at the access tandem is technically feasible and efficient. TR. at 1369. Therefore, Qwest's [sic] must revise the SGAT to permit interconnection for the exchange of local traffic at the point determined by the CLEC, in conformance with the language proposed by AT&T. Qwest must not require interconnection at the local tandem, at least in those circumstances when traffic volumes do not justify direct connections to the local tandem. Qwest must do so regardless of whether capacity at the access tandem is exhausted or forecasted to exhaust unless Qwest agrees to provide interconnection facilities to the local tandems or end offices served by the access tandem at the same cost to the CLEC as interconnection at the access tandem.

Washington Order at p. 43.

370. In its Comments to Staff's Proposed Findings of Fact and Conclusions of Law, Qwest stated that it agreed to allow interconnection at the access tandem subject to the 512 CCS Rule. Comments at p. 2. Qwest claims Staff's resolution does not recognize the 512 CCS Rule and should therefore be modified. Id. at p. 3. Qwest claims the Report now allows CLECs to effectively carry all of their traffic through the access tandem. Id. at p. 4. This, according to Qwest, will cause monumental problems that would harm Qwest's and CLECs' customer alike. Id. Qwest states that its long distance network is simply not designed to handle all of the long distance traffic and a substantial and increasing percentage of local traffic. Id. at p. 4. Qwest states that the safeguard is to require CLECs to utilize direct trunks (move away from the access tandem and create a direct connection between their switch and the end office that receives the increased volume of traffic) when industry recognized engineering standards warrant the transition. This is known as the 512 CCS rule. 512 CCS (centum call seconds) is the equivalent of one DS-1 worth of traffic. Id. Qwest states that this is widely recognized as the point where economics warrant moving away from tandem trunks and to direct trunks. Id. Almost every time a CLEC routes a call through a tandem switch it must also be switched at an end office, thereby requiring the CLEC to pay for Qwest to switch the traffic twice. When the 512 CCS

standard is met it is generally more economic from a cost perspective and less onerous from a traffic volume perspective to install direct trunks. While the CLECs must install a direct trunk, they must then only pay Qwest to switch the traffic one time. Id. Qwest also claims that AT&T itself has acknowledged the propriety of the 512 rule in Arizona and throughout Qwest's region. Id. at p. 5. Qwest claims that the problem with Staff's recommendation is that it makes the 512 rule optional. Id. Qwest states that the debate was never over whether the parties should move to direct trunks when the rule was met. Id. at p. 6.

371. Qwest proposes the following language:

> 7.2.2.9.6 CLEC may interconnect at either the Qwest local tandem or the Qwest access tandem for the delivery of local exchange traffic. When CLEC is interconnected at the access tandem and where there would be a DSl's worth of local traffic (512 CCS) between CLEC's switch and a Qwest end office subtending the Qwest access tandem, CLEC will order a direct trunk group to that Qwest end office.
>
> > 7.2.2.9.6.1 Qwest will allow Interconnection for the exchange of local traffic at Qwest's access tandem without requiring Interconnection at the local tandem, at last in those circumstances when traffic volumes do not justify direct connection to the local tandem; and regardless of whether capacity at the access tandem is exhausted or forecasted to exhaust.

372. Staff believes that both Qwest and AT&T make some legitimate points, which Staff would recommend be addressed through adoption of the following language in lieu of that proposed by the Multi-State Facilitator.

> 7.2.2.9.6 CLEC may interconnect for the exchange of local/EAS traffic at either the Qwest access tandem or the Qwest local tandem, at the CLEC's option. When CLEC is interconnected at the access tandem and where there would be a DS1's worth of local traffic (512 CCS so long as not 512 busy hour CCS) between CLEC's switch and a Qwest end office subtending the Qwest access tandem, CLEC will order a direct trunk group to that Qwest end office. CLEC may request a waiver of this provision from the Commission upon a showing that such compliance will impose a material adverse economic or operations impact, during the pendency of which Qwest shall maintain the status quo.
>
> > 7.2.2.9.6.1 Qwest will allow Interconnection for the exchange of local traffic at Qwest's access tandem without requiring Interconnection at the local tandem, at least in those circumstances when traffic volumes do not justify direct connection to the local tandem; and regardless of whether capacity at the access tandem is exhausted or forecasted to exhaust unless Qwest agrees to provide

interconnection facilities to the local tandems or end offices served by the access tandem at the same cost to the CLEC as interconnection at the access tandem.

DISPUTED ISSUE NO. 12: Whether Qwest's attempt to dictate interconnection by demanding trunks only to end offices and local tandems and limiting interconnection at access tandems violates § 271? (SGAT Section 7.4.5

a. Summary of Qwest and CLEC Positions

373. AT&T also objects to SGAT Section 7.4.5 which it claims limits the CLEC's ability to interconnect at access tandems. AT&T Brief at p. 26.

b. Discussion and Staff Recommendation

374. This issue is virtually identical to Disputed Issue No. 11 and as such, the same resolution applies. For the same reasons discussed above for SGAT Section 7.2.2.9.6, Staff agrees with AT&T that Section 7.4.5 of Qwest's SGAT inappropriately limits the CLEC's ability to interconnect at access tandems. Qwest should be required to delete Section 7.4.5 of its SGAT.

DISPUTED ISSUE NO. 13: Whether Qwest's definition of "Tandem Office Switches" violates § 271? (SGAT Section 4.11.2)

a. Summary of Qwest and CLEC Positions

375. AT&T argued that Qwest's tandem switch definition is not consistent with the Act. AT&T March 28, 2001 Brief at p. 27. Section 4.11.2 of the SGAT, defines a tandem switch as CLEC switches that "*actually* serve(s) the ***same*** geographic area as Qwest's Tandem Office Switch or is used to connect and switch trunk circuits between and among other Central Office Switches. Id. The terms "actually" and "same" as used in Qwest's tandem definition, improperly limit the circumstances under which a CLEC shall be entitled to tandem treatment for its switch. Id. Qwest's proposed tandem definition incorrectly suggests that the function of the switch should be considered in determining whether tandem treatment is appropriate. Id. FCC Rule 51.711(a)(3) makes clear that the only factor to be considered is whether the CLEC's switch "serves a geographic area comparable to the area served by the ILECs tandem switch." Id. Therefore, the tandem definition must be modified in two ways: (1) the definition must be modified by striking "actually" and replacing "same" with "comparable" to track the language of FCC Rule 51.711(a)(3), and (2) the references in the definition to switch functionality should be eliminated. Id.

376. AT&T also stated that the remaining portion of this definition should likewise be stricken because it too contradicts Qwest's Section 271 obligations with respect to interconnection at the access tandem. AT&T March 28, 20001 Brief at p. 28. This dispute is discussed where Qwest is trying to dictate the conditions under which CLECs may interconnect at the access tandem. Id.

377. MCIW argued this issue in the context of its comments regarding reciprocal compensation and in its closing comments dated February 8, 2000 on Checklist Item Nos. 3 and 13. MCIW March 28, 2001 Brief at p. 17. MCIW stated that the existing End Office ("EO") definition is too restrictive in the SGAT and proposed changes to that definition. Id. MCIW also argued that the tandem definition found in Section 4.11.2 should be changed so that a CLEC switch could be classified as a tandem. Id. Where CLEC switches cover a comparable geographic area as Qwest's tandem switches, the reciprocal compensation rate for all local traffic terminated by that CLEC should include both the end office and the tandem switching rate as set firth by the FC in 47 C.F.R. §51.711. Id.

b. **Discussion and Staff Recommendation**

378. This issue was resolved in Staff's Report on Checklist Item 13 – Reciprocal Compensation. In that report, Staff stated that it believed that Qwest was attempting to incorporate and/or give recognition to the FCC's symmetrical compensation rule and the tandem interconnection rate symmetry rule. Where Qwest does not charge a termination (local switching rate) or equivalent charge, the CLECs should likewise not obtain a termination (local switching rate), or equivalent charge from Qwest. Staff recommended that Qwest be required to revise the definition of a Tandem Switch contained in its SGAT and that it submit such language for the approval of Staff and the parties.

DISPUTED ISSUE NO. 14: Whether Qwest's definition of "Meet Point Billing" constitutes an adhesion attempt and is unjust and unreasonable in violation of § 271 of the Act? (SGAT Section 4.39)

a. **Summary of Qwest and CLEC Positions**

379. AT&T argued that Qwest is attempting to force interconnecting CLECs to adhere to Qwest's legal position on Internet Protocol ("IP") telephony through its improper inclusion of the topic in the SGAT per section 4.39. AT&T March 28, 2001 Brief at p. 28. AT&T states that the SGAT should not be a tool that Qwest can exploit to avoid its previous contractual obligations or to promote its policy positions particularly when they are utterly irrelevant to the purpose of the SGAT. Id. at p. 29. The FCC has made clear that while interexchange carriers ("IXCs") may obtain interconnection pursuant to § 251(c)(2), interconnection solely for the purpose of originating or terminating interexchange traffic and not for the provision of telephone exchange services and exchange access to others is not entitled to receive interconnection pursuant to § 251(c)(2). Id. The FCC has also exempted Enhanced Service Provider's ("ESPs"), which includes Internet Service Provider's ("ISPs") traffic from switched access, and it has not carved out a distinction for IP Telephony traffic such that Qwest could subject such traffic to switched access. Id. at p. 30.

380. AT&T went on to state that Qwest is seeking to phone-to-phone Internet Protocol Telephony traffic as switched access in order to avoid paying reciprocal compensation for this traffic. Id. at p. 30. The FCC found "no reason to interfere with state commission findings that reciprocal compensation provisions of interconnection agreements apply to ISP-bound traffic,

pending the FCC's adoption of a rule establishing an appropriate interstate compensation mechanism." Id. at p. 30-31. Thus, the FCC has expressly determined that state commissions have the authority to impose reciprocal compensation obligations on ISP traffic. Id.

381. With respect to IP Telephony, the same exemption from the payment of access charges established by the FCC for ISP traffic has been applied as well to IP Telephony traffic. Id. at p. 33-34. IP Telephony continues to be classified by the FCC as an information service exempt from access charges. Therefore, Qwest's attempt in its SGAT to include IP Telephony in its definition of Switched Access flies in the face of these FCC rulings and must be rejected. Id. The FCC has clearly treated this traffic as local traffic and, therefore, this traffic should be subject to reciprocal compensation, but most importantly for purposes of interconnection, Qwest should not be attempting to shoe-horn its position into the SGAT via the interconnection provisions. Id. Therefore, AT&T recommends that Qwest delete the italicized portions of §§ 4.39 and 4.57 from its SGAT. Id.

382. Sprint argued that by attempting to redefine switched access to include ISP traffic, Qwest's SGAT impermissibly forces CLECs to accept its internal position regarding the nature of IP Telephony and collaterally attacks the Commission's rulings on reciprocal compensation. Sprint March 28, 2001 Brief at p. 21. Qwest's SGAT language compromises CLECs' rights to receive compensation for terminating traffic to Qwest and would improperly require the payment of access charges for local traffic. Id. at p. 23. Sprint has advocated in its interconnection arbitration before the Arizona Commission that the FCC has exempted Enhanced Service Provider ("ESPs") including Internet Service Provider ("ISP")) traffic from switched access charges. Id. at p. 23-24. The FCC has never ruled the IP traffic should be subject to switched access charges and therefore, this Commission should order Qwest to take steps correcting the inconsistencies found in its SGAT regarding IP Telephony. Id. at p. 25.

b. Discussion and Staff Recommendation

383. Qwest has agreed to SGAT provisions relating to IP telephony from its SGAT. Specifically, Qwest removed IP telephony language from Sections 4.39 and 4.57 to resolve AT&T's concerns. Staff believes that this should resolve AT&T's concerns.

DISPUTED ISSUE NO. 15: Whether Qwest should charge for Individual Call Records for Transit? (SGAT Section 7.5.4 and 7.6.3)

a. Summary of Qwest and CLEC Positions

384. MCIW argued that in the past, MCIW and Qwest have not charged each other for such call records. MCIW Brief at p. 16. MCIW claims that the cost to provide and store this date exceeds the benefit either party derives from it. Id. MCIW questions whether the cost associated with tracking and assessing such a charge is justified in view of the minimal cost associated with performing the database query to retrieve the 11-01-XX and 11-50-XX records and transmit them in an EMR mechanized format. Id. at p. 17.

385. Qwest argues that this issue is simply one of fairness. Qwest Brief at p. 20. It is a reciprocal charge that applies to Qwest and CLECs alike. Id. MCIW's assertion that Qwest has not charged for this in the past is incorrect since, in fact, a modest charge has commonly been applied in contract accounting services agreements. Id. at p. 21. Qwest states that if MCIW has an issue with the actual rate that is reciprocally charged, it can raise those concerns in the Cost Docket now pending before the Commission.

b. **Discussion and Staff Recommendation**

386. In its Proposed Findings of Fact and Conclusions of Law, Staff agreed that since this was a reciprocal charge that could be assessed by both Qwest and the CLEC, it was reasonable. A carrier that provides services to another is entitled to compensation for its services. Further, MCIW had not demonstrated that the charges have been determined improperly. Therefore, Staff agreed with the position of Qwest.

387. In its Comments to Staff's Proposed Findings of Fact and Conclusions of Law, WorldCom requested that the Commission clarify that the costs associated with these records be based upon the number of records processed, not the number transmitted. WorldCom also states that the relevant sections do not indicate the full range of records being addressed, and that the SGAT provisions should be clarified to address these points. Comments at p. 6.

388. Staff agrees with the clarifications requested by WorldCom and recommends that Qwest revise its SGAT to address that the charge will be based upon the number of records processed and to indicate the range of records to which the charge applies.

COLLOCATION IMPASSE ISSUES

DISPUTED ISSUE NO. 1: Whether Qwest illegally limits the CLECs' right to collocate at remote and adjacent premises?

a. **Summary of Qwest and CLEC Positions**

389. AT&T argues that Qwest refuses to comply with the law by disallowing all virtual collocation in what it defines as "Remote Premises" and in any adjacent premises. AT&T Brief at p. 39. Qwest defines "Remote Premises" for purposes of collocation as only physical collocation in a "premises" other than a wire center or central office. Id. The FCC defines "premises" for the purpose of all collocation types as:

> an incumbent LEC's central offices and serving wire centers; all buildings or similar structures owned, leased, or otherwise controlled by an incumbent LEC that house its network facilities ... including but not limited to vaults containing loop concentrators or similar structures; and all land owned, leased, or otherwise controlled by an incumbent LEC that is adjacent to these central offices, wire centers, buildings, and structures

Id. The FCC has similarly clarified that where space is legitimately exhausted in a particular incumbent structure, the incumbent must allow the CLEC to collocate in "adjacent controlled environmental vaults or similar structures . . . ." Id. The D.C. Circuit Court of Appeals upheld this particular provision. Id.

390. AT&T also stated that the FCC's rules, consistent with the Act, allow incumbent LECs to offer virtual collocation where the space in the incumbents' premises is not sufficient for physical collocation. Id. Qwest's SGAT Section 8.2.1.1 states: Qwest shall provide Collocation on rates, terms and conditions that are just, reasonable and non-discriminatory. In addition, Qwest shall provide Collocation in accordance with all applicable federal and state law. Id. at p. 41. Contrary to its SGAT and its collocation obligations under § 271 of the Act, Qwest refuses to allow technically feasible virtual collocation in remote and adjacent premises. Id.

391. Sprint argued that Qwest's SGAT Section 8.1.1.8 permits only physical collocation, effectively prohibiting virtual collocation, despite the fact that virtual collocation is technically feasible and therefore must be provided to interconnecting CLECs. Sprint Brief at p. 25. The requirement to physically collocate in every remote terminal is excessively costly and unduly burdensome and compels the CLEC to build an overlay of Qwest's network. Id. at p. 26. Qwest should be required to allow CLECs to use the same cost-effective technology it uses to reach customers served from remote terminals, including "card-at-a-time" virtual collocation where available. Id. Allowing card-at-a-time virtual collocation will facilitate the efficient use of Qwest's underlying network and reduce the costs of competition for CLECs and the public generally. Id. at p. 27. Absent the implementation of a virtual collocation mechanism, individual CLECs will be saddled with the unrecoverable costs of physically collocating a DSLAM in remote terminals that serve far fewer customers than the DSLAM is capable of serving, and will foreclose viable competitive alternatives to a large portion of Qwest's customers in locations that are distant from the central office. Id. Therefore, Qwest's SGAT should be revised to allow remote virtual collocations. Id.

392. Covad argued that Qwest improperly prohibits remote virtual collocation. Covad Brief at p. 5. Qwest's SGAT states that remote collocation only "allows CLECs to physically collocate equipment in or adjacent to a Qwest Remote Premises . . . ." Id. No CLEC is in the financial position to collocate DSLAMs at a sufficient number of remote terminals to offer a viable competitive service. Id. Second, remotely deploying a DSLAM causes significant waste. Id. Finally, physically collocating DSLAMs in Qwest's remote terminals would materially delay a requesting carrier's timely entry into the local market or alternatively delay expansion of an existing carrier's line sharing service offerings. Id. Covad suggested that Qwest permit CLECs to virtually collocate at remote terminals on a "DSL line card by DSL line card" basis which Qwest refused. Id. at p. 7. The Commission should require Qwest to permit remote virtual collocation. Id.

393. Qwest stated that it extended its offer of collocation to include its remote premises, which are defined in Section 4.50(a) of the SGAT to include non-wire center premises such as: controlled environmental vaults, controlled environmental huts, cabinets, pedestals and other remote terminals. Qwest Brief at p. 36. Qwest is entitled to require segregation of its equipment in physical collocation and that given the limited amount of space available in remote

premises, however, Qwest has decided to waive this requirement. Id. Once Qwest gives up its right to require physical separation for CLEC equipment in remote premises, if sufficient space does not exist for physical collocation, then by definition, there is likewise no space for virtual collocation. Id. at p. 36-37. This approach is consistent with recent FCC guidance on this subject. Id. Qwest has followed the FCC's suggestion that it not "place collocators in separate space isolated from [Qwest's] own equipment" as would typically be the case in a wire center. Id. Under the approach suggested by the FCC, if a collocator's equipment can fit in a remote terminal, Qwest will permit physical collocation of that equipment. Id. at p. 38. Under this approach, there is no distinction as a practical matter between the equipment that can be collocated physically and that which could be collocated virtually. Id.

b. Discussion and Staff Recommendation

394. To satisfy its obligations under the Federal Act and FCC Orders, Qwest should be required to modify its SGAT to assure that virtual collocation in remote locations is not precluded or limited to any greater extent than it is at wire centers. 47 C.F.R. Section 51.323(a) does not contain any limitations on the provision of virtual collocation. Qwest must revise its SGAT to allow remote virtual collocation.

395. Nonetheless, Staff does not recommend that Qwest be required to go beyond current FCC rules. While CLECs would like to virtually collocate at remote terminals utilizing "card by card" collocation, Staff does not recommend this approach since this is not currently done in the central office or required by the FCC. Staff believes any determination regarding "card by card" collocation should come from the FCC.

DISPUTED ISSUE NO. 2: Whether Qwest's definition of collocation to encompass access to the Network Interface Devise (NID) or its equivalent at Multiple Dwelling Units (MTEs) and Business Campuses is such that CLECs cannot access those end-user customers at parity with Qwest? (SGAT Section 8.1.1.8.1)

a. Summary of Qwest and CLEC Positions

396. AT&T argued that through Qwest's proposed SGAT Section 8.1.1.8.1, Qwest has determined that cross-connections between a CLEC's network interface device ("NID") and Qwest's NID, located at multiple tenant environments ("MTEs") or multiple dwelling units ("MDUs"), constitute some form of collocation, which is subject to unknown intervals for provisioning. AT&T March 28, 2001 Brief at p. 42. This proposed SGAT language suggests that AT&T would have to collocate a UNE in order to gain the access to the end-user customers. Id. at p. 44. Since Qwest has ready access to those customers, AT&T would have to wait for extended collocation provisioning intervals and could not service its customers in the same time frames as Qwest thereby creating a parity problem. Id.

397. AT&T went on to argue that for purposes of defining access to the NID as collocation, Qwest is drawing a distinction between when it owns the inside wiring to the MDU/MTE and when it does not own the wiring. AT&T Brief at p. 44. When Qwest owns the wiring, it claims that such access becomes collocation versus when Qwest doesn't own the wires,

no collocation is required. Id. at p. 45. However, AT&T contends that drawing an ownership distinction does not serve competition, but rather creates a barrier to entry thereby injecting greater expense and delay in the CLECs' ability to access the end-user customer than Qwest itself experiences. Id. Qwest can have almost immediate access to the MDU/MTE end-user customer, whereas AT&T and other CLECs could as well if they did not have to wait out Qwest's collocation provisioning intervals. Id.

398. Qwest argued that it considered the issue to be resolved on the basis of its agreement not to require collocation in MTE terminals located in or attached to customer-owned building where no electronic equipment, power or heat dissipation is required. Id.

b. **Discussion and Staff Recommendation**

399. Qwest's proposal appears to be acceptable to the parties and specifically to meet the concerns expressed by AT&T. No party filed comments on this issue in their Comments to Staff's Proposed Findings of Fact and Conclusions of Law.

DISPUTED ISSUE NO. 3: Whether Qwest is creating allegedly "new" products and policies that, by their individual terms and conditions, undermine Qwest's actual compliance with its obligations under the Act, the SGAT and Interconnection Agreements?

a. **Summary of Qwest and CLEC Positions**

400. AT&T argued that there are two disputes within this issue. First, SGAT Section 8.1.1 identifies eight standard types of collocation offered by Qwest. AT&T Brief at p. 46. Section 8.1.1 states "other types of collocation may be requested through the BFR process." Id. If Qwest actually comes up with a "new" type of collocation not already contemplated by the FCC and covered under the terms of its SGAT, the problem with a *bona fide* request process, based on the experience of AT&T and others, is that it has proven to create unwarranted delay in the CLECs' ability to serve customers thereby creating enormous operational delays and impeding competition. Id. Qwest's attempt to limit the SGAT's applicability to only the eight specified types of collocation primarily raises the concern that whenever Qwest introduces what it considers to be a "new" product, it insists on a contract amendment before the CLEC is permitted to order the product. Id. at p. 46-47. The result that occurs is that by going through the BFR process is time consuming and frequently occurs under circumstances in which parties have unequal bargaining power. Id.

401. The second dispute arises with respect to Qwest's "productizing" its collocation offerings in that it unilaterally alters its agreements through the development of written policies and performance requirements that are inconsistent with its interconnection agreements and the SGAT. AT&T Brief at p. 46-47. Within these policy statements, Qwest demands that the CLECs subscribe to these policies regardless of what the SGAT or the interconnection agreements state. Id. These policies are frequently contrary to the SGAT and interconnection

agreements. Id. AT&T offered up its exhibit 2 ATT 20 and other later-created collocation policies that were subsequently admitted in other states that readily discern the problem. Id.

402. MCIW argued that the bona fide request process has proven to create unwarranted delay in the CLEC's ability to serve customers thereby creating enormous operational delays and impeding competition. MCIW Brief at p. 18.

403. MCIW is also concerned that Qwest is using a variety of ways to unilaterally change or "interpret" language found in the SGAT by incorporating documents into the SGAT by reference or issuing policy notices that elaborate on CLEC obligations not contained in Qwest's SGAT. Id. at p. 19. The use of Qwest's processes such as the BFR and ICB only hurts consumers and interposes uncertainty and delay for CLECs trying to serve customers. Id. Additionally, MCIW is concerned about Qwest documents that may not directly conflict with the SGAT terms and conditions, but rather purportedly add undesirable terms and conditions not contained in the SGAT that Qwest intends to impose on CLECs. MCIW Brief at p. 10-11.

404. MCIW agrees with AT&T that to the extent that Qwest is relying on its SGAT as proof of compliance with the competitive checklist under Section 271, it can only be found to have satisfied the checklist if it is also shown that Qwest is presently providing service consistent with the provisions of the SGAT. Id.

405. Sprint argued with Qwest's assessment that productizing, while an issue that should be addressed in the General Terms and Conditions workshop, is not a 271 issue. Sprint Brief at p. 10. Sprint, however, maintains that the productizing issue is both a 271 issue and a SGAT issue. Id. Qwest's policy of "productizing" offerings that it is required to provide under the Act substantially increases the costs of interconnection for competing carriers, and substantially lengthens the time it takes a carrier to complete interconnection. Id. This policy imposes unreasonable barriers to efficient interconnection by competing carriers which only serves to protect Qwest's monopoly status, frustrate competition and harm Arizona consumers. Id.

406. Qwest argued that it would be unreasonable to require Qwest, or any other provider, to offer a new product or service without prior agreement to the terms and conditions pursuant to which the product or service is offered. Qwest March 28, 2001 Brief at p. 26. Qwest went on to state that there is simply nothing in the Act that requires Qwest to offer a product or service to CLECs without first agreeing upon how it will be available, used and paid for. Id.

407. Qwest has gone beyond the Act's requirement by showing a willingness to allow CLECs simply to opt in to the terms and conditions of a new product offering – without having to amend their actual agreements – by offering to make products immediately available under the terms and conditions consistent with that product offering. Id. at p. 28. CLECs have refused to accept the concept that they should be bound by the terms and conditions that are associated with the product itself, and essentially contend that they should be allowed to use any new Qwest product offering under whatever terms and conditions a CLEC sees fit. Id. Since this issue relates to the mechanics of Qwest's SGAT, rather than compliance with Section 271 of the Act, Qwest submits that its position here is both legally justified and eminently reasonable. Id.

b. Discussion and Staff Recommendation

408. The concept of "new" product does not properly define the true nature of the issue in dispute. The fact that a new form of collocation may develop gives rise to a number of unknowns, such as what it will be, what it will cost, what its unique circumstances and requirements are and whether it will impose costs that are unique are issues that cannot be determined at this time. It would be unreasonable to impose a blanket requirement that any new forms of collocation must be available under the same terms and conditions as apply to those currently known. The BFR process is useful in this context as it is in other unknown circumstances. Concerns arising regarding the BFR process should be reserved for the workshops on General Terms and Conditions. Staff finds the Multi-State language to be acceptable and would recommend that Qwest be required to incorporate that same language in its Arizona SGAT. Thus, SGAT Section 8.1.1 should be revised to include the following language:

> Other types of collocation may be requested through the BFR process. In addition, where Qwest may offer a new form of collocation, CLEC may order that form as soon as it becomes available and under the terms and conditions pursuant to which Qwest offers it. The terms and conditions of any such offering by Qwest shall conform as nearly as circumstances allow to the terms and conditions of this SGAT. Nothing in this SGAT shall be construed as limiting the ability to retroactively apply any changes to such terms and conditions as may be negotiated by the parties or ordered by the state commission or any other competent authority.

409. The other issue raised is one in which AT&T and MCIW state that Qwest is unilaterally altering its agreements through the development of written policies and performance requirements that are inconsistent with its interconnection agreements and the SGAT. Staff believes this again is more a General Terms and Conditions workshop issue since this issue is not unique to collocation. While the CLECs concerns are legitimate and must be resolved, Staff believes those concerns could be better addressed in continuing GT&C workshops rather than at this juncture.

DISPUTED ISSUE NO. 4: Whether Qwest has created numerous unnecessary exceptions to its compliance with timely collocation intervals? (SGAT Sections 8.4.1.9 (formerly 8.4.1.8), 8.4.2.4.3 & 8.4.2.4.4, 8.4.3.4.3 & 8.4.3.4.4 and 8.4.4.4.3 & 8.4.4.4.4)

a. Summary of Qwest and CLEC Positions

410. AT&T stated that pursuant to FCC Order, Qwest should provide collocation within the intervals outlined by the FCC, which require, among other things, that within 10 calendar days after receiving an application, Qwest must inform the CLEC whether its application meets collocation standards. AT&T Brief at p. 48. Qwest must then complete physical collocation arrangements within 90 calendar days after receiving an application that meets the collocation standards. Id. Furthermore, Qwest must finish construction and turn

functioning space over to the CLEC within the 90 day interval. Id. Longer intervals must be submitted to the state commissions for approval. Id. at p. 49. The FCC has not yet declined to set intervals for virtual collocation but has declared that "intervals significantly longer than 90 days generally will impede competitive LECs' ability to compete effectively." Id.

411. AT&T argued that there are four SGAT sections that create unwarranted exceptions to Qwest's obligations to provide timely and reasonable collocation for CLECs within the 90 day intervals. AT&T March 28, 2001 Brief at p. 49. They are (1) SGAT Section 8.4.1.9 (formerly 8.4.1.8) imposing excessive limitations on the number of collocation applications a CLEC may submit to Qwest; (2) SGAT Section 8.4.2.4.3 & .4 imposing outrageously long provisioning intervals for virtual collocation; (3) SGAT Section 8.4.3.4.3 & .4 again imposing excessive provisioning intervals on physical collocation; and (4) SGAT Section 8.4.4.4.3 & .4 also imposing excessive provisioning intervals on ICDF collocation orders. Id.

412. Regarding section 8.4.1.9, AT&T claims that Qwest illegally attempts to limit the number of CLEC collocation applications it will accept. Id. at p. 49. SGAT Section 8.4.1.9 states:

> The intervals for Virtual Collocation (Section 8.4.2), Physical Collocation (section 8.4.3), and ICDF Collocation (Section 8.4.4) apply to a maximum of five (5) Collocation Applications per CLEC per week per state. If six (6) or more Collocation orders are submitted by CLEC in a one-week period in the state, intervals shall be individually negotiated. Qwest shall, however, accept more than five (5) Applications from CLEC per week per state, depending on the volume of Applications pending from other CLECs.

Id. at p. 50. Rather than hiring the people necessary to meet customer needs, Qwest seeks to control and limit customer demand so that it can ensure that it meets its Arizona PID measurements. Id. Qwest has not shown that it has ever received "an extraordinary number of complex collocation applications", but it has shown that it seeks to unilaterally limit all orders complex or simple. Id. at p. 51. This results in nothing more than an unjustified restraint on the CLEC business and a barrier to competition and there is no legal support for such a limitation. Id.

413. Regarding sections 8.4.2.4.3, 8.4.3.4.3 & .4 and 8.4.4.4.3 & .4, AT&T claims that they all impose excessive provisioning intervals for virtual, physical and ICDF collocation in violation of the FCC's orders and Section 271 of the Act. AT&T Brief at p. 52. There are only three general exceptions to the 90 day interval: (a) state deadlines; (b) mutually agreed to deadlines between CLEC and ILEC; and (c) lack of space in the premises. Id. at p. 53. The FCC issued its Memorandum Opinion and Order on November 7, 2000 in response to Qwest's request for a waiver of the imposition of the 90 day intervals pending the FCC's consideration of Qwest's Reconsideration Petitions. Id. It concluded that unilateral declarations, not approved by the FCC or the State, cannot go into effect on an interim or permanent basis. Id. at p. 54. Therefore, AT&T recommends that SGAT Section 8.4 be amended to reflect only that which the Arizona Commission has approved. Id.

414. The FCC also clarified that Qwest's interim waiver limited Qwest to no more than an additional 60 days for provisioning unforecasted requests *on an interim basis*, and it was further expected to minimize that time period. Id. However, AT&T argues that Qwest's SGAT demands that the CLECs provide very specific forecasts, demanding much of the same detailed information found in an application, before Qwest will agree to meet the 90 day interval. Id. Even where space is available and Qwest could otherwise meet the interval, it—nevertheless—refuses to do so and gives itself another two months to provision the collocation request by demanding a "pre-application" a/k/a forecast 60 days in advance of the actual order. Id. AT&T states that five months is simply an outrageous amount of time to obtain collocation, particularly in the case of cageless physical collocation requests where appropriate space is readily available whether forecasted or not. Id.

415. AT&T proposes that the 90 day standard for physical and the lesser standards for virtual and ICDF collocation intervals would apply for forecasted or unforecasted collocation orders where Qwest has collocation space available. AT&T March 28 Brief at p. 57. In exceptional circumstances where Qwest lacks the necessary space, power or HVAC to accommodate the order's needs, Qwest may employ the longer interval, which it has an express obligation to minimize. Id.

416. MCIW stated that it agreed with AT&T's arguments concerning Qwest's attempts to extend the FCC mandated collocation intervals. MCIW Brief at p. 19. Qwest should provide collocation within the intervals outlined by the FCC and if longer intervals are required, it must receive state commission approval. Id. Qwest has, through its SGAT, proposed longer intervals in certain circumstances. Id. at p. 20. Qwest has failed to adequately demonstrate that its longer intervals should be approved. Id.

417. MCIW stated that Qwest is obligated to provide timely and reasonable collocation for CLECs within the 90-day interval. Id. Qwest needs to face penalties for not being able to meet that 90-day deadline and not just count on loose language and a lack of negotiating power by the CLECs to escape its legal responsibility to adhere to the deadlines. Id. at p. 21. Therefore, MCIW would agree and support the SGAT modifications proposed by AT&T. Id.

418. Covad argued that Qwest may not limit the number of collocation requests by a CLEC. Covad Brief at p. 9. Qwest's SGAT Section 8.4.1.9 is inconsistent with 47 C.F.R. § 51.323 which makes no reference to any limitation on the number of collocation applications a CLEC may submit. Id. at p. 10. Qwest submitted no evidence that it self-imposes similar limits on its own central office construction or that it lacks the resources to process and provision more than five collocation applications per CLEC per week. Id. The Commission should require that Qwest delete SGAT Section 8.4.1.9 as unlawful under controlling law. Id.

419. Covad also argued that the Commission should find that Qwest may not appropriately condition the interval for the provisioning of collocation space requiring no infrastructure on the submission of a CLEC forecast. Covad March 28, 2001 Brief at p. 11. The Commission should (1) deny Qwest's request to make its collocation interval contingent upon the submission of a forecast, and (2) reject any SGAT language requiring such a submission. Id.

420. Qwest argued that its position in favor of forecasts is entirely consistent with the positions taken by the FCC and other state Commissions. Qwest Brief at p. 44. On August 10, 2000, the FCC issued its Order on Reconsideration, which addressed issues raised in response to

its Collocation Order and established a national 90-day default interval for provisioning physical collocation. Id. at p. 45. On November 7, 2000, in response to requests filed by Qwest, Verizon, and SBC, who sought waivers from the 90-day default interval, the FCC released an Amended Order which clarified its earlier decision, and established interim standards that apply specifically to Qwest in place of the 90-day default interval, during the pendency of the FCC's ongoing reconsideration of its Order on Reconsideration. Id. The interim standards allow for longer intervals (150 days) for unforecasted collocation applications not requiring major infrastructure modifications and even longer intervals for unforecasted collocation applications that require Qwest to perform major infrastructure modifications. Id. at p. 45-46. Although CLECs now challenge Qwest's use of a 120-day interval, this interval is less than that expressly approved by the FCC for application in situations where CLECs do not submit timely forecasts of their collocation needs. Id. In addition to approving the 120-day interval specifically proposed by Qwest, the FCC stated that even 150 days would be appropriate as a maximum interval in the absence of CLEC forecasting. Id.

421. In addressing the first impasse issue, Qwest argues that its reliance on forecasts in establishing collocation provisioning intervals is appropriate and has been specifically approved by the FCC. Qwest Brief at p. 46. CLECs have not offered any reasoned justification for their continued objection to the need for forecasts, which is particularly telling in light of the FCC's recognition of the importance of forecasts in the provisioning process. Id. at p. 47. The FCC expressly permits incumbents to "require a competitive LEC to forecast its physical collocation needs," and ". . . [to] penalize an inaccurate forecast by lengthening a collocation interval," if authorized by the state commission. Id. *Order on Reconsideration* at Paragraph 39. The FCC clearly premised its interim intervals upon forecasting on the part of the CLEC, as they specifically "allow Qwest to increase the provisioning interval [90 days] for a proposed physical collocation arrangement no more than 60 calendar days **in the event a competitive LEC fails to timely and accurately forecast the arrangement**, unless the state commission specifically approves a longer interval." Id. Amended Order at Paragraph 19 (emphasis added). The collocation provisioning intervals offered by Qwest in its SGAT are either specifically approved or even more generous to CLECs than required by the FCC. Id. at p. 48.

422. With respect to provisioning Interconnection Distribution Frame Collocation ("ICDF"), Qwest will meet a 90-day interval despite the lack of a forecast. CLECs challenge the 90-day interval, which is already shorter than the FCC interim interval approved for Qwest of 150 days. Id. Therefore, there is simply no basis for the CLEC's position.

423. Regarding the second impasse issue, Qwest argued that the Commission should provide additional time to install collocations where a high volume of applications are received in a short period of time. Qwest Brief at p. 49. In its Order on Reconsideration, the FCC specifically found, however, that state commissions can adopt ". . .either shorter or longer [intervals] than the national default standard, based on the facts before that state, which may differ from our record here." Id. Qwest submits, however, that setting achievable intervals and avoiding delays should be a cooperative enterprise. Id. Qwest has requested CLECs to space out their orders for collocation, in order to avoid deluging the staff and contractors that are responsible for processing and provisioning the orders. Id. Qwest thus seeks to avoid

circumstances where a CLEC's indiscriminate use of batch collocation orders makes it impossible for Qwest to meet established provisioning intervals. Id.

424. As the FCC recognized in its decision in the BellSouth Louisiana II proceedings, Qwest should only be required to prepare for **reasonably foreseeable** volumes. Id. at p. 50. Second BellSouth Louisiana Order at ¶ 54 (Oct. 1998).

b. Discussion and Staff Recommendation

425. This issue can be broken down into two parts: (1) Qwest's reliance on forecasts in determining the appropriate length of its intervals, and (2) the need for additional time to provision collocation where a high volume of applications is received in a short period of time.

426. The FCC issued its Order on Reconsideration, which addressed issues raised in response to its Collocation Order and established a national 90-day default interval for provisioning physical collocation. The FCC subsequently released an Amended Order, which clarified its earlier decision and established interim standards that apply specifically to Qwest in place of the 90-day default interval, during the pendency of the FCC's ongoing reconsideration of its Order on Reconsideration. This would allow interim standards for longer intervals up to 150 days when no CLEC forecast is provided. In its Proposed Findings of Fact and Conclusions of Law, Staff recommended that Qwest be required to meet the 90-day interval if space is available and there is no specific power or HVAC facilities required, despite the fact that no CLEC forecast had been provided. If power or HVAC is required, Qwest may employ longer FCC approved intervals, up to a maximum of 150 days.

427. Staff believes that Qwest should be required to therefore modify its SGAT to provide for the national standard 90 day collocation provisioning standard for physical collocation. Qwest's SGAT should reflect that its CLEC forecasting requirements will be reasonable, seek only that information which is absolutely necessary and comparable to what other RBOCs require, and will not impose burdensome informational requirements on the CLECs. Qwest's SGAT should reflect the interim waiver of the 90 day period granted by the FCC and the addition of 60 days which applies only in instances where no CLEC forecast was provided, and only if absolutely necessary, meaning that it is impossible for Qwest to provision the collocation in the standard 90 day period. In cases where space is available and no specific power or HVAC facilities are required, even no CLEC forecast may have been provided, Qwest should be able to meet the 90 day deadline and its SGAT should reflect this fact. Finally, if Qwest requires longer than the approved FCC intervals, Qwest's SGAT should reflect that it must receive Arizona Commission approval for a waiver.

428. Regarding the need for additional time when high volumes of orders are received, Staff recommended that Qwest's intervals for collocations be increased by 10 days for every 10 (or fraction thereof) additional applications. Staff also recommended that no relief should be allowed unless the number of collocation orders in a given month exceeds 10 orders per week times the number of Arizona CLECs per month. If that maximum number is hit, Qwest must receive relief from the Arizona Commission.

429. In its Comments to Staff's Proposed Findings of Fact and Conclusions of Law, AT&T stated that it still had two concerns which it asked Staff to address: (1) clarifying the total number of applications that may be submitted; and (2) reconsidering the FCC's requirement that the applications be "complex." Comments at p. 11.

430. Upon reconsideration, Staff believes that the volume limitations contained in SGAT Section 8.4.1.9 are unreasonable and inconsistent with current FCC rules. 47 C.F.R. Section 51.323 does not provide for an exemption from the provisioning deadlines based upon the volume of orders received by the ILEC. Qwest has been required by other State commissions in its region to remove this restriction. Staff recommends that Qwest do so in Arizona as well and eliminate Section 8.4.1.9 from its SGAT.

DISPUTED ISSUE NO. 5: Whether Qwest's open refusal to comply with the FCC's Rule, 47 C.F.R. § 51.321(h), regarding publicly posted notice for CLECs of full Qwest collocation premises competitively disadvantages CLECs?

a. Summary of Qwest and CLEC Positions

431. AT&T argued Qwest has absolutely no intention of actually abiding by its legal obligation as recited in the SGAT in that Qwest's public Internet document will list only wire centers and not all premises that are full regarding collocation. AT&T Brief at p. 57-58. Additionally, with respect to wire centers, it will show only a limited subset of the wire centers. Id. at p. 58. The subset of wire centers Qwest intends to identify are only those that it discovers are full as a result of providing a Space Availability Report to a CLEC requesting collocation in a particular wire center. Id.

432. AT&T states that this issue involves what the FCC requires of the publicly available Internet document; it does not involve the Space Availability Report, which the CLECs will pay for when they request that Qwest provide such a report regarding a particular premises. Id. at p. 58. AT&T has sought a reasonable compromise with Qwest in that it has requested Qwest maintain an Internet document that reveals all its wire centers in the State that are full and that it also maintain a list of premises, other than wire centers, where it has prepared a Space Availability Report for a CLEC that showed, for example, that a particular remote premises was full. Id at p. 59. This compromise relieves Qwest of the alleged burden of understanding the space limitations in all its remote premises while not shifting completely the financial burden of developing better wire center and outside plant inventory records onto its competitors. Id.

433. Qwest argued that its position is consistent with the FCC's approach to this issue:

> [U]pon request, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. . . The incumbent LEC must maintain a publicly available document, posting for viewing on the incumbent LEC's publicly [sic] available Internet site, indicating all premises that are full, and must

update such a document within ten days of the date at which a premises runs out of physical collocation space.

434. Qwest Brief at p. 29. See 47 C.F.R. § 51.321 (h) (emphasis added). Qwest submits that there is nothing in the FCC regulation charging Qwest with an independent duty to inventory all premises, regardless of whether any CLEC has any interest in any particular premises. Id. at p. 30. Qwest's duty under the clear language of the regulation is to report when space has been exhausted at a premises, based on information collected as a result of CLEC inquiries. Id.

b. **Discussion and Staff Recommendation**

435. Qwest has agreed to add language to its SGAT to resolve AT&T's concern. Therefore, Staff believes this issue is no longer in dispute.

DISPUTED ISSUE NO. 6: Whether Qwest's SGAT arbitrarily increase the expense of collocation for the CLEC in developing and defining certain collocation rate elements and by leaving other rates to be determined on an Individual Case Basis (ICB)? (SGAT Sections 8.3.1.9 and 8.3.5.1 & 8.3.6)

a. **Summary of Qwest and CLEC Positions**

436. AT&T argued that there were three SGAT Sections with offending rate issues: SGAT Section 8.3.1.9 regarding channel regeneration charges imposing unwarranted increases in the expense of collocation; and SGAT Sections 8.3.5.1 and 8.3.6 dealing with adjacent collocation charges and rate elements for remote collocation done on an ICB. AT&T March 28, 2001 at p. 60-61.

437. Regarding SGAT Section 8.3.1.9, AT&T objected to Qwest's imposition of a channel regeneration charge when the distance between the CLEC's collocation space and Qwest's network facilities is so great as to require regeneration. Id. at p. 60. In a forward-looking environment, facilities would be placed such that the distance between the CLECs collocation space and Qwest's network facilities would not require channel regeneration which by definition is inconsistent with the principle that collocation rates be based on forward-looking cost developed using a least cost network configuration. Id. AT&T also stated that the SGAT should create some incentive for Qwest to minimize the need for regeneration charges by encouraging it to place its competitors' equipment appropriately. Id.

438. Regarding SGAT Sections 8.3.5.1 and 8.3.6, AT&T objects to Qwest's proposal to price both adjacent collocation and remote collocation on an ICB basis and state that Qwest should be required to develop a set of standard adjacent and remote collocation offerings, incorporating collocation rate elements to the extent possible. AT&T March 28, 2001 Brief at p. 61. Allowing Qwest to price these two types of collocation on an ICB basis leads to delay, unjust pricing and potential discrimination. Id. As in Colorado, AT&T urges the Commission to defer this issue to the appropriate cost docket in order for the parties to submit proposals for standardizing the prices of adjacent and remote collocation. Id.

439. MCIW argued that Qwest should be required to develop a set of standard adjacent and remote collocation offerings, incorporating collocation rate elements to the extent possible. MCIW March 28, 2001 Brief at p. 21. This is consistent with the FCC's expectation that Qwest has created specific and concrete terms under which it provides interconnection, collocation and its other wholesale offerings. Id. Allowing Qwest to price these two types of collocation on an ICB leads to delay, unjust pricing and potential discrimination. Id.

440. Covad argued that a channel regeneration charge is an "additional cost" and therefore prohibited by the FCC. Covad March 28, 2001 Brief at p. 7-8. CLECs have no real control over where they are placed in the central office and thus have no way to affect whether regeneration is necessary because "the collocation site was selected by Qwest." Id. Covad went on to state that the collocation site selected by Qwest regularly ignores best engineering practices and, instead, more often reflects "the business needs and decisions of Qwest." Id. The SGAT should be modified to eliminate the assessment of a channel regeneration charge, except in the sole circumstance where a CLEC makes a deliberate decision to design its network in a way that requires regeneration. Id. at p. 9.

441. Qwest argued that the CLEC's premise on charges for channel regeneration is neither legally or factually correct. Qwest March 28, 2001 at p. 34. Qwest notes that the selection of collocation space is not without practical limits, especially in those wire centers with high demand for collocation, and limited additional space options. Id. Qwest further notes that it has a duty under the SGAT to provide the most efficient means of interconnection possible. Id. This will ensure, to the maximum extent possible, that CLEC equipment is placed in such a manner as to avoid the need for signal regeneration. Id. Where regeneration is unavoidable, however, CLECs should incur the cost of this service as part of the cost of collocation in that if regeneration must be provided, it must be paid for. Id. at p. 34-35.

442. Regarding both adjacent and remote collocation, Qwest argued that it has made clear that has simply no experience in provisioning either adjacent or remote collocation, and that it possesses no rate information for these products. Qwest March 28, 2001 Brief at p. 32. Qwest is more than willing to establish rates for the products and services that it provides, where such rates can be determined according to the standards required in the Act; namely, on the basis of Qwest's forward looking cost plus a reasonable profit. Id. An incumbent cannot be required to set rates that will determine its cost recovery where it is virtually unknown what those costs will be and where it appears the costs associated with both remote and adjacent collocation will vary greatly upon the specific circumstances of the collocation request. Id. In the absence of any established experience, an Individual Case Based ("ICB") approach to pricing is plainly appropriate. Id. at p. 33. Since SGAT Section 2.2 requires Qwest to modify its SGAT to conform with decisions from generic dockets, such as the cost docket, should the Commission determine that standard rates for these forms of collocation are appropriate, Qwest is required to input them into the SGAT. Id. at p. 33-34.

b. Discussion and Staff Recommendation

443. The Qwest proposal that adjacent and remote collocation be priced on an ICB basis is reasonable at this time. Qwest has stated its willingness to establish rates for the products and services that it provides, where such rates can be determined and according to the standards

of the Act. There is no evidence to support the identification of any adjacent and remote collocation offerings for which standard prices can be established, let alone what those prices should be. Qwest has indicated in the Wholesale Pricing Docket, that when reliable pricing data becomes available for products, it will eliminate ICB pricing with established rates.

444. Regarding channel regeneration charges, Staff recommends that the SGAT be modified to remove Qwest's right to charge where there exists another available collocation location where regeneration would not be required, or where there would have been such a location, had Qwest not reserved space for its future use in the affected premises.

DISPUTED ISSUE NO. 7: Whether Qwest's space reservation policies favor Qwest over the CLEC? (SGAT Section 8.4.1.7)

a. Summary of Qwest and CLEC Positions

445. AT&T argued that while the majority of the provisions in SGAT Section 8.4.1.7 have been resolved, AT&T opposes Qwest's proposal to require CLECs to forfeit their space reservation fee upon cancellation of the reservation (SGAT Section 8.4.1.7.4). AT&T March 28, 2001 Brief at p. 61. Such a forfeiture provision is discriminatory and would result in an unlawful windfall for Qwest. Id. at p. 62. The forfeiture provision set forth at SGAT Section 8.7.1.7 violates the requirement that space reservation policies apply equally to both the ILEC and its competitors. Id. Unlike the CLECs, Qwest has placed nothing at risk of forfeiture and as such, the forfeiture provision must be struck down. Id.

446. MCIW argued that Qwest and CLECs do not have similar obligations under section 8.4.1.7 and Section 8.2.1.16. MCIW March 28, 2001 Brief at p. 22. When comparing Section 8.2.1.16 (Qwest right to reserve floor space) with Section 8.4.1.7, Qwest does not have similar obligations to those imposed on CLECs in Section 8.4.1.7. Id. Qwest will not prepare Collocation Space Reservation Application Forms, pay nonrecurring charges, or forfeit nonrecurring deposits if it doesn't use space. Id. This is a discriminatory application of the SGAT. Id. MCIW also considers the cancellation forfeiture found in Section 8.4.1.7.4, concerning Reservation/Deposits for Collocation, to be disproportionate with the reservation policy. Id. MCIW therefore recommends that Section 8.4.1.7.4 be deleted. Id.

447. Qwest argued that the FCC has expressly deferred to states to develop space reservation policies. Qwest March 28, 2001 Brief at p. 40. While Qwest submits that its initial SGAT proposal met the FCC's requirements, it also recognized that such an approach may not, as a practical matter, fit the needs of all CLECs. Id. at p. 41. Qwest has significantly modified the SGAT with two objectives in mind: first, Qwest made the reservation policy contained in Section 8.4.1.7 more attractive to CLECs by reducing the price (Qwest has now lowered the 50% deposit to 25%); and second, Qwest has crafted a right of first refusal policy (now found in a new SGAT Section 8.4.1.8). Id. This should meet the needs of CLECs by providing a lower cost alternative, with commensurately fewer benefits to the party holding the option. Id.

448. Qwest also stated that there must be some consequences to the CLEC in order to avoid disingenuous use of the reservation option to warehouse space. Id. at 42. Qwest believes

that Section 8.4.1.7 clearly meets all requirements for a reservation policy found in the regulations, since it provides a policy that does not: "reserve space for future use on terms more favorable than those that apply to other telecommunications carriers seeking to reserve collocation space for their own future use." Id.

449. Requiring a meaningful reservation deposit ensures that requesting carriers have a stake in their reservation, and are not simply warehousing collocation space in the incumbent's premises. Id. at p. 43. This not only protects Qwest but also other CLECs. Id. The FCC recognized that such restrictions are appropriate and it has authorized incumbents by its regulations to impose such restrictions on competing carriers. Id. 47 C.F.R. § 51.323(f)(6) provides, "[a]n incumbent LEC may impose reasonable restrictions on the warehousing of unused space by collocating telecommunications carriers. . . ." Id. Qwest views the imposition of a partially refundable reservation deposit, which will be applied towards the cost of collocation when actually ordered, and used to offset costs of provisioning that Qwest will be required to incur before the CLEC actually submits a final application, as a fair balance, and clearly a "reasonable restriction on the warehousing of unused space," clearly permitted by FCC regulation. Id.

b. Discussion and Staff Recommendation

450. In its Proposed Findings of Fact and Conclusions of Law, Staff found that Qwest's proposal was supported by both the need for recovery of actual costs and the prevention of wasteful or inappropriate use of space reservation.

451. In its Comments to Staff's Proposed Findings of Fact and Conclusions of Law, AT&T stated that given current economic conditions and the ever-decreasing number of CLECs, it is far more likely that collocation space will be vacated rather than "warehoused." AT&T Comments at p. 12. AT&T states that if Qwest has done no work to prepare for the eventual collocation and if no other entity, including Qwest, has any need for such space, it becomes a complete windfall to Qwest. Id. AT&T proposed new language which would require Qwest to not just refund the percentages indicated but also more of the deposit where Qwest has not actually incurred expenses relating to the Space Collocation Reservation. Comments at pps. 12-13. AT&T proposed the following language:

> 8.4.1.7.5 The refund amounts set forth in Section 8.4.1.7.4 are minimum refund amounts. Qwest shall refund more of the deposit in the event that Qwest has not actually incurred expenses with third parties for the Collocation Space Reservation. In such a case, in addition to refunds identified in Section 8.4.1.7.4, Qwest shall refund so much of the amounts retained under 8.4.1.7.4 for which Qwest has not incurred a corresponding expense for the Collocation Space Reservation. (For example, under 8.4.1.7.4(a), Qwest would retain twenty-five percent (25%) of CLEC's deposit, unless Qwest did not incur expenses that equal that amount. If Qwest's expenses are less than such amount, Qwest shall refund to CLEC the difference between the amount retained and the amount of expenses actually incurred.

452. Staff declines to recommend adoption of the language proposed by AT&T. It fails to recognize that Qwest absorbs or incurs carrying costs associated with warehousing space for a CLEC, and that Qwest is entitled to recover those costs.

DISPUTED ISSUE NO. 8: Whether Qwest is obligated to offer Shared Cageless Collocation? (SGAT Section 8.1.1.4)

a. Summary of Qwest and CLEC Positions

453. Covad argued that Qwest's SGAT permits only "[s]hared [c]aged [p]hysical [c]ollocation, " but not shared cageless physical collocation. Covad Brief at p. 3. Qwest has also not demonstrated that shared cageless collocation is not technically feasible. Id. at p. 4. Qwest has stated it is willing to provide shared cageless collocation pursuant to a bona fide request, which entails less work and therefore comes at a decreased cost to Qwest, rather than undertaking at this juncture a modification to its OSS systems. Id. at p. 4-5. Qwest should permit shared cageless collocation because it is efficient. Id. To allow Qwest to provide only shared caged collocation would result in duplication of CLEC facilities and supporting infrastructure and therefore the SGAT must be modified to provide for shared cageless physical collocation. Id.

454. Qwest argued that the only language under 47 C. F. R. § 51.323(k)(1) relating to the offering of shared physical collocation is limited to a caged arrangement. Qwest Brief at p. 39. Thus, the only duty imposed upon an incumbent LEC is to provide shared physical collocation in a caged arrangement. Id. Rule 51.323(k)(2) makes no allowance whatsoever for sharing in a cageless arrangement. Id. The FCC, in its recent *Collocation Order* addressing alternative collocation arrangements, only required incumbent LECs to make shared collocation cages available to new entrants. Id. Covad's request that Qwest broaden the section to provide for sharing of collocation in other than caged situations has no legal basis under FCC requirements. Id. In the absence of any mandate from the FCC imposing shared arrangements beyond caged, Qwest submits that there is no justification for forcing it to restructure its systems. Id. at p. 39-40. Qwest submits that a CLEC can request this type of development through the BFR process. Id.

b. Discussion and Staff Recommendation

455. Staff supports the Qwest position regarding shared cageless collocation. The SGAT, however, should be modified to allow subleasing of cageless collocation space. This language should specify that in as much as this type of arrangement is among CLECs, Qwest's involvement is such third party arrangement is minimal.

g. Verification of Compliance

456. With Staff's recommendations as to the resolution of all impasse issues as described above, all outstanding issues raised in the Workshops in Arizona have now been resolved.

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457. Qwest has agreed to allow all CLECs to opt into the new provisions of its SGAT resulting from these Workshops.

458. With the resolution of all disputed and outstanding issues, Staff recommends that Qwest be found in compliance with Section 271(c)(2)(B)(i) of the Act which requires a 271 applicant to provide or offer to provide "[i]nterconnection in accordance with the requirements of section 251(c)(2) and 252(d)(1).

459. With the resolution of all disputed and outstanding issues, Staff recommends that Qwest be found in compliance with Section 251(c)(2) which imposes upon an incumbent LEC "the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network...for the transmission and routing of telephone exchange service and exchange access.

460. With the resolution of all disputed and outstanding issues, Staff recommends that Qwest be found in compliance with Section 251(c)(2)'s requirements that such interconnection be: (1) provided at any technically feasible point within the carrier's network; (2) at least equal in quality to that provided by the local exchange carrier to itself or...to any other party to which the carrier provides interconnection; and (3) provided on rates, terms, and conditions that are "just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of Section 251 and Section 252.

461. With the resolution of all disputed and outstanding issues, Staff recommends that Qwest be found to meet the requirements of Section 251(c)(6) which requires incumbent LECs to provide physical collocation of equipment necessary for interconnection unless the LEC can demonstrate that physical collocation is not practical for technical reasons or because of space limitations, in which case the incumbent LEC must provide virtual collocation of interconnection equipment.

462. With the resolution of all disputed and outstanding issues, Staff recommends that Qwest be found to meet the requirements of Section 252(d)(1) which requires that Qwest's rates for interconnection be just and reasonable and based upon the cost of providing the interconnection and that its rates are nondiscriminatory.

463. That notwithstanding the above findings, Qwest compliance with Checklist 1 shall be dependent upon its meeting all relevant performance measurements as determined in the Independent Third Party OSS Test in Arizona.

II CONCLUSIONS OF LAW

1. 47 U.S.C. Section 271 contains the general terms and conditions for BOC entry into the interLATA market.

2. Qwest is a public service corporation within the meaning of Article

XV of the Arizona Constitution and A.R.S. Sections 40-281 and 40-282 and the Arizona Commission has jurisdiction over Qwest.

3. Qwest is a Bell Operating Company as defined in 47 U.S.C. Section153 and currently may only provide interLATA services originating in any of its in-region States (as defined in subsection (I)) if the FCC approves the application under 47 U.S.C. Section 27

4. The Arizona Commission is a "State Commission" as that term is defined in 47 U.S.C. Section 153(41).

5. Pursuant to 47 U.S.C. Section 271(d)(2)(B), before making any determination under this subsection, the FCC is required to consult with the State Commission of any State that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c).

6. In order to obtain Section 271 authorization, Qwest must, inter alia, meet the requirements of Section 271(c)(2)(B), the Competitive Checklist.

7. Section 271(c)(2)(B)(i) of the Telecommunications Act of 1996 requires a 271 applicant to provide or offer to provide "[i]nterconnection in accordance with the requirements of section 251(c)(2) and 252(d)(1)."

8. Section 251(c)(2) imposes upon incumbent LECs "the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network... for the transmission and routing of telephone exchange service and exchange access.

9. Pursuant to Section 251(c)(2), such interconnection must be: (1) provided "at any technically feasible point within the carrier's network;" (2) "at least equal in quality to that provided by the local exchange carrier to itself or ... [to] any other party to which the carrier provides interconnection;" and (3) provided on rates, terms, and conditions that are "just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of [section 251] ... and section 252.

10. Section 251(c)(6) requires incumbent LECs to provide physical collocation of equipment necessary for interconnection unless the LEC can demonstrate that physical collocation is not practical for technical reasons or because of space limitations. In that event, the incumbent LEC is still obligated to provide virtual collocation of interconnection equipment.

11. Section 252(d)(1) of the Act states that "[d]eterminations by a State Commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of [section 251(c)(2)] ... (A) shall be (i) based on cost ... of providing the interconnection ...and (ii) nondiscriminatory, and (B) may include a reasonable profit."

12. Qwest complies with the requirements of Checklist Item No. 1, subject to it updating its SGAT with language reflective of impasse resolutions discussed above, and to its updating its SGAT with consensus language agreed to in other Region workshops.

13. Qwest's compliance with Checklist Item 1 is also contingent on its passing of any relevant performance measurements in the third-party OSS test now underway in Arizona.